

ORIGINAL

BEFORE THE INDIANA GAMING COMMISSION

PUBLIC MEETING
AFTERNOON SESSION

TRANSCRIPT OF PROCEEDINGS

DATE: June 22, 1995

PLACE: Indiana Government Center Auditorium
302 West Washington Street
Indianapolis, Indiana

REPORTED BY: Kathleen L. Cast, Notary Public

MEMBERS OF THE COMMISSION

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Thomas F. Milcarek
Donald R. Vowels
Ann Marie Bochnowski
Robert W. Sundwick

ALSO PRESENT

John J. Thar, Executive Director,
and Members of the Staff

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1 MR. KLINEMAN: We've had a rather
2 long week, as some of you probably who have
3 been with us know. And we've really gotten
4 to the place where the Commission has decided
5 it probably would not be very effective to
6 have follow-up questions to the presenting
7 applicants or the cities or anything else
8 this afternoon.

9 What we have set up, and we still
10 might not have anything that's bothering us,
11 but we would ask the applicants to come back
12 next Friday when we get ready to go into the
13 session where we will start the awards for
14 licenses.

15 So I'm sorry for the inconvenience
16 for those of you who stayed since your
17 presentation to follow up with questions.
18 But we just feel it wouldn't be effective at
19 the present time.

20 It's just been too long a period and
21 too long a time, and we feel that it would be
22 more effective to review some of the material
23 that we had submitted to us during the

1 presentations and so forth that we haven't
2 really had time to look at, and then come
3 back a week from Friday. And if we still
4 have any questions that are bothering us, we
5 can get them answered at that time.

6 So I'm sorry for the inconvenience of
7 those of you who stayed for the question
8 period this afternoon. But you're released;
9 you can go on your way.

10 I guess we're all present now. I
11 have asked Mrs. Bochnowski to take over this
12 afternoon, and she's the vice chairman, vice
13 chairperson.

14 MS. BOCHNOWSKI: Whatever.

15 MR. KLINEMAN: I'm not politically
16 correct. I'm also running out of gas myself.
17 So she will preside this afternoon.

18 MS. BOCHNOWSKI: Thank you. This
19 afternoon, to begin with, I guess our first
20 group is the Oxbow, Oxbow, Incorporated,
21 Oxbow Indiana, Incorporated.

22 Instead of having the Oxbow and
23 Sierra Club speak to us during the public

1 comments, we felt this was an important issue
2 and should be set aside to a special time. So
3 we're giving you twenty-five minutes if you
4 want to make your presentation.

5 MR. MARA: Thank you, Madam Chairman.
6 We appreciate the opportunity to testify
7 before your Commission. My name is Timothy
8 Mara. I'm the attorney for Oxbow. With me
9 this afternoon are Norma Flannery, president
10 of Oxbow, and Dave Armentrout, president of
11 Environmental Assessment Services, Inc.,
12 consultant to Oxbow.

13 Previously, I have sent to the Gaming
14 Commission a copy of the comprehensive study
15 of the Oxbow area completed by Mr.
16 Armentrout's firm in August, 1994. I have
17 also sent to the Commission a smaller updated
18 report, which I understand has been copied
19 for each member of the Commission.

20 We will attempt in the time allotted
21 to us to briefly summarize these reports and
22 add to that observations and comments that
23 may help you in making this difficult

1 decision about licensing in Lawrenceburg.

2 When we refer this afternoon to the
3 Oxbow Wetlands, we will be referring not just
4 to the land owned by our organization, but to
5 the entire area of low-lying lands east of
6 Lawrenceburg that functions as a single very
7 important and delicate ecosystem.

8 Please turn briefly to Exhibit 1 in
9 the packet of our exhibits. It's a group of
10 maps. The Oxbow Wetlands includes the entire
11 area bounded on the south by the Ohio River,
12 on the west by the Lawrenceburg levy, on the
13 north by U.S. 50 and extending to the east
14 well into the state of Ohio.

15 This is an area susceptible to
16 frequent flooding from both the Ohio and
17 Great Miami Rivers. In fact, the area of
18 most immediate concern to your deliberations
19 is the area, of course, within Indiana. And
20 that area is usually under water for much of
21 the late winter and early spring each year,
22 as happened this year.

23 Mr. Armentrout will explain how these

1 wetlands function and how the rise and fall
2 of the waters interact with the plant and
3 animal life to form a very special web of
4 life which is not duplicated anywhere else.

5 Much has been done to preserve this
6 important environmental resource. In Ohio,
7 the Hamilton County Park District has
8 purchased most of the wetlands outright. It
9 has acquired conservation easements over most
10 of the remaining wetlands, which effectively
11 limits use of this area to agricultural
12 purposes.

13 Now, on Exhibit 1, the area owned by
14 the county park district is the area in dark
15 brown, and the area of their conservation
16 easements is in the orangeish color.

17 The future of the Oxbow Wetland on
18 the Ohio side seems reasonably secure. To
19 preserve the Oxbow Wetlands in Indiana, the
20 Oxbow organization was founded some ten years
21 ago. And today we have approximately one
22 thousand members, mostly in Indiana, Ohio and
23 Kentucky.



1 During this time, Oxbow has purchased
2 more than three hundred acres in the area
3 immediately east of the conservancy district
4 site, as shown on Exhibit 1. That's the area
5 with the tree pattern shown there.

6 We have also acquired conservation
7 easements over an additional three hundred
8 acres. And on that same map, you'll see the
9 other pattern adjacent to the conservation
10 district and Oxbow properties, as well as
11 further to the northeast by the Ohio state
12 line. Those are two areas over which we have
13 conservation easements.

14 IDNR, the Indiana Department of
15 Natural Resources, has also purchased a small
16 tract of land within this area along the
17 shore of the Great Miami River.

18 All together in Ohio and Indiana,
19 more than one and a half million dollars has
20 been spent to preserve the Oxbow Wetlands.
21 We are here today because we believe that all
22 that has been accomplished is at risk.

23 Each of the gaming facilities that

1 have been described to you during these
2 hearings has the potential to irreparably
3 harm the delicate Oxbow ecosystem, to undo
4 the balance that has been achieved between
5 nature and human activity.

6 Now, I'm going to turn to Dave
7 Armentrout, president of Environmental
8 Assessment Services, to tell you about how
9 the Oxbow Wetlands function. Dave?

10 MR. ARMENTROUT: Good afternoon. I'm
11 Dave Armentrout. I assume that you all have
12 worked your way through these reports at one
13 time or another and you remember them well.
14 Well, let me tell you something about what's
15 in these reports.

16 The first seven pages -- I'm not
17 going to ask you to reread these to refresh
18 your memories about what's in them. But the
19 first seven pages is an executive summary.
20 And I am going to ask you before you reach a
21 decision in this case to revisit those seven
22 pages, please, and just take a quick look at
23 those pages and remind yourself about what's

1 in them. They include the key information
2 that we're trying to get across in this
3 entire study.

4 My company was contracted by Oxbow,
5 Inc. to do a study of the Oxbow Wetlands.
6 And to do that, we included people from
7 outside the company, a team of consultants
8 that we put together that consisted of
9 diverse specialized professionals who were
10 specialized experts from academic circles,
11 specialized in various aspects of aquatic and
12 terrestrial botany as well as vertebrate and
13 invertibrate species evaluation.

14 And we had them work both on-site on
15 the Oxbow property as well as do some fairly
16 extensive literature review and research on
17 issues of concern here with respect to the
18 surrounding area.

19 This study in this area does center
20 around the Oxbow Lake, which was formed as a
21 cutoff a long time ago of a meander of the
22 Great Miami River. But the Oxbow property
23 itself is not the extent of the total what we

1 should refer to as the Oxbow Wetlands.

2 The Oxbow property is part of a much
3 larger area, as Tim Mara just pointed out,
4 and, in fact, is considered to be the largest
5 wetland area within a hundred miles up and
6 down the Ohio River.

7 We think that this is classified as a
8 jurisdictional wetland based on three
9 criteria. And those include hydric soil,
10 hydrophytic vegetation and hydrology, which
11 includes frequent and long duration flooding.

12 Wetlands in general -- and this
13 wetland area is not an exception to this --
14 typically function to purify ground water.
15 They function to moderate flooding effects,
16 and they function in general to recharge
17 ground water. It's a very important thing to
18 keep in mind with respect to all wetland
19 areas.

20 The Oxbow Wetlands, however, are not
21 typical. Typical, you know, you hear about
22 mitigating loss of wetlands. And what they
23 do when they mitigate loss of wetlands is



1 they actually go in and create a new wetland
2 somewhere else to fill the same functions;
3 that is, those purification, recharging
4 functions. And that's a physical process.

5 The Oxbow Wetland is not typical
6 though; it's a little different. And this is
7 a key point that I want you to remember.
8 It's different in that it's not just a swamp.
9 It's not just a bird sanctuary. It's a
10 diverse ecosystem. There's more to this than
11 just recharging the ground water and looking
12 at the engineering and hydrogeologic effects
13 of changes in the flood plain.

14 If you read our report, if you recall
15 our report, you'll recall that it deals in
16 depth with a great diversity of natural
17 resources within this area. And that
18 includes two hundred and seventy-six plus
19 waterfowl species that reside or migrate
20 through this area, as well as scores of
21 vertebrate and invertebrate species, as well
22 as scores of different terrestrial, as well
23 as aquatic vegetation species.

1 And all of these are interrelated in
2 a very intricate and, I will point out, very
3 delicate relationship. It's a total
4 biosystem. And I want to remind you that as
5 a total biosystem, it can't be duplicated.
6 And I don't care with what gaming companies
7 say. I don't care what the engineers say.
8 It can't be duplicated.

9 You're familiar with Biosphere 2000,
10 the project out in Arizona. I have been to
11 visit that, and I was really impressed. I
12 thought that was a hot deal. They have had
13 some significant problems maintaining the
14 relationships of the various species in the
15 chemical and physical processes that they
16 need to keep that going. And that represents
17 just a small fraction of the total of what
18 we're talking about in this biosystem that
19 we're dealing with here in the Oxbow
20 Wetlands.

21 So if you consider the problems that
22 that group of scientists is having
23 maintaining Biosphere 200, and multiply that

1 by probably twenty, maybe even fifty times,
2 you get a feel for the enormity of the
3 problem that you have in maintaining this
4 ecosystem that we're talking about here.
5 This is a natural phenomenon, and it's a
6 nationally recognized natural phenomenon.
7 It's not a theme park.

8 The flood plain obviously dominates
9 the hydrology of this area, and the flood
10 plain serves to recharge the wetlands and
11 recharge the Oxbow Lake itself. The
12 frequency and duration of the flooding are
13 critical in that they can affect the
14 sedimentation that occurs in fields that are
15 used for agriculture.

16 If the proper sedimentation does not
17 occur or if the flooding is of too long a
18 duration, it will affect crops. Affecting
19 the crops will affect the ground cover that's
20 available for the life within that biosphere.
21 And it will affect the food sources that are
22 available to migrating species that come
23 through there.

1 It's a very -- maintaining the proper
2 flooding sequence and the proper duration of
3 flooding is extremely important here in that
4 annually there is a connection made between
5 the Ohio and Miami Rivers and the wetland
6 itself and, in fact, with the Oxbow Lake
7 itself.

8 That connection is very important in
9 maintaining the life of this ecosystem. Just
10 as an example, there are fishes that migrate
11 into the wetlands as a result of the flooding
12 sequence. And those fish, fishes, as a
13 matter of fact -- I'm used to saying fish.
14 Let's say fish. Those fish, as a matter of
15 fact, serve as a major food source for
16 migrating birds in the early spring that come
17 through this area.

18 So if you affect that flooding,
19 affect the level of the flooding, you can
20 affect the vegetation. You can affect the
21 sedimentation. And that will have a
22 synergistic effect on the wildlife that
23 resides in this area. That's something that

1 we need to keep in mind.

2 Because of the importance of flood
3 plains and wetlands and their interactions,
4 the federal government and most of the
5 state -- well, all of the states have adopted
6 legislation to protect these areas.

7 Because this is a jurisdictional
8 wetland, I believe that it comes under the
9 Clean Water Act as far as protection is
10 concerned. And the Corps of Engineers
11 certainly has some responsibilities to see
12 that it is protected.

13 The Corps of Engineers has some
14 policies with respect to protection of
15 wetlands and flood plains, and those are
16 codified in the Code of Federal Register. I
17 understand that the Corps is going to do a
18 presentation here, so certainly I don't want
19 to speak for them.

20 But I believe they do have some
21 policies with respect to the cumulative
22 effect of flood plain changes and the fact
23 that those changes may result in significant

1 degradation of flood plain values and
2 functions as defined in the federal register
3 and in increased harm, increased potential
4 for harm to upstream and downstream
5 activities.

6 I would note that an example of the
7 increased potential for harm through
8 development of flood plain areas is obvious
9 as a result of what we saw along the
10 Mississippi River over the last couple of
11 years with the flooding devastation that
12 occurred all along that river.

13 There are some predictable effects of
14 flood plain development. There are some
15 nonpredictable effects also with respect to
16 how long it's going to take to impact the
17 ecosystem that we're concerned about in this
18 area. But I believe that certainly
19 intuitively at least we can conclude that
20 there will be some devastating effects if the
21 flood plain functions are interrupted.

22 Because there are some federal
23 regulations and state regulations that apply

1 to development of flood plain areas and
2 development of wetlands, I have a
3 suspicion -- and I'm not an attorney here, so
4 this is only -- I just only put this out as
5 my own thoughts. In addition to building a
6 flood plain maybe being a little bit stupid,
7 it may be illegal.

8 And that's something that we haven't
9 visited in depth here in our report, but
10 certainly something that once the permitting
11 process here that certainly will follow once
12 you've made your decision and once those
13 processes have started, I'm sure that whole
14 issue will be visited in depth.

15 When we consider changes to flood
16 plain hydrology, keep in mind that we're
17 talking about physical prediction models
18 being applied to the data. And I believe
19 that the results of those models are not
20 precise enough to give us real answers to
21 what's going to happen to the habitants,
22 inhabitants of this ecosystem.

23 This ecosystem has a specific

1 balance. And if you read through this
2 report, you'll notice what some of those
3 balance relationships are. You'll notice
4 that some of those relationships are very
5 delicate.

6 What I want to do here really through
7 all of these comments is make four specific
8 points. One is that we're talking here about
9 not just a wetland as a physical area, but
10 we're talking about protection of an entire
11 ecosystem. We're talking about protection of
12 an ecosystem that doesn't stop at the
13 property boundary of Oxbow, Incorporated, but
14 it has far greater reaches than that, and
15 also includes interstate implications.

16 This area also is nationally
17 recognized as an educational and cultural
18 resource, and it's recognized that it's
19 irreplaceable because of its diversity in the
20 natural relationships that are exhibited
21 here.

22 You know, the people who did this
23 study for us included a lot of people who are

1 familiar with -- much more familiar with each
2 of the individual aspects of this study than
3 I personally am and who specialize in each
4 area. And they were amazed when they
5 reviewed what's going on in the Oxbow Lake
6 and around that entire area at the total
7 diversity of what's going on.

8 They identified some species that
9 previously had not been recognized or
10 identified. They did not identify any
11 endangered species, but I'm going to talk
12 about that in just a second.

13 In addition to noting that this is a
14 nationally recognized educational and
15 cultural resource, I want to point out
16 finally that federal law, federal policy,
17 state and local law and state and local
18 policies all recognize the importance of
19 natural resources. And there are mechanisms
20 in place for the review and protection of
21 those natural resources.

22 And, as I stated earlier, the
23 permitting process that we will be involved

1 with as a follow-up to the decisions that you
2 make aren't as simple as I think maybe some
3 folks may have presented them to you
4 heretofore.

5 I have been in the environmental
6 business for twenty some years now, and I
7 have dealt with a lot of environmental
8 agencies. And I can tell you that nothing
9 moves on time. Now, maybe that says I'm a
10 poor consultant, but I think it speaks to the
11 process. And these things do get slowed
12 down.

13 I think that the project that you
14 select here, I think if it is the project
15 that has the least implications, or no
16 implications even would be even better, for
17 impact on this wetland and flood plain area,
18 I think that entire process could be speeded
19 up significantly.

20 I have a sneaking suspicion in
21 reading some of these proposals that you are
22 dealing with that some of the people who put
23 these things together were the victims of

1 some really poor advice.

2 You know, in a consulting business,
3 it's easy and not unusual to come across a
4 client who asks you for your scientific or
5 professional opinion and then proceeds to
6 tell you what that opinion is. And I think
7 that's happened here.

8 And I think that if it hadn't
9 happened, and I think that if maybe the
10 gaming companies who are making these
11 proposals that you're dealing with right now
12 had realized the extent and the importance
13 and the impact of what this ecosystem is and
14 what it involves, I think you would have seen
15 some significantly different proposals than
16 what you're evaluating right now.

17 I think we're dealing with a lot of
18 people who are engineers. They're not
19 biologists, they're not naturalists, they're
20 not conservationists, and they just don't get
21 it. I don't think they recognize what's
22 going on here.

23 We recognize what's going on here. I

1 hope you get it. I think you do get it, and
2 I hope that you'll keep all of these
3 considerations in mind when you make your
4 final decisions.

5 We've looked at a couple of recent
6 reports that have been put out that deal
7 with -- here's one that deals with endangered
8 and threatened species habitat assessment,
9 Lawrenceburg, Indiana.

10 What they did here was they looked
11 at -- they looked at three potential
12 endangered species, the sandhill crane, the
13 Indiana bat and the bald eagle. And they
14 said, well, you know, we don't see these
15 things residing here, and so they don't
16 reside here. And really, you know, this
17 is -- this area is so close to the populated
18 area of Lawrenceburg that the development of
19 Lawrenceburg really is not -- does not
20 present a very good opportunity for habitat
21 for these species.

22 Well, there are two things that I got
23 out of that. One is certainly the bald

1 eagle, even though it may not be nesting or
2 residing in that area, it uses that area as a
3 stopover point, as is noted in David Styer's
4 book Birds of the Oxbow. And it was
5 sighted -- a bald eagle was sighted in this
6 area as recently as May 23rd, 1995. Norma
7 didn't think I'd remember May 23rd, but I
8 did.

9 The other thing, the other thing that
10 I want to point out from this kind of a study
11 is that, you know, they say, well, we don't
12 have endangered species here, and this really
13 doesn't represent a good habitat area for an
14 endangered species because of all of the
15 development. But we're going to develop this
16 some more.

17 And I'm not advocating that you don't
18 develop the area in order to attract
19 endangered species. But what I am saying is
20 if you think that this isn't a good habitat
21 area for an endangered species because of all
22 the development, what makes you think that it
23 would be a good habitat area for a

1 nonendangered species because of all the
2 development? That doesn't make any sense to
3 me.

4 What I want to do, I know that every
5 place you go, people are asking you for
6 something; right? The only thing I have
7 asked you for is I have asked you to revisit
8 our report. And I didn't even ask you to
9 read the whole thing. I asked you to revisit
10 the first seven pages, the executive summary.
11 Please do that. That's all I've asked of
12 you.

13 And I'm going to do something a
14 little different today. I'm going to give
15 you something. I'm going to give you a gift.
16 And this isn't a bribe. You know, out of
17 adversity comes opportunity. And I'm going
18 to give you the gift of opportunity.

19 I'm going to give you the opportunity
20 to recognize a significant, historical,
21 future, cultural and natural resource and its
22 importance to the residents of Indiana as
23 well as Ohio and Kentucky.

1 And I'm going to give you the
2 opportunity to make a decision when you make
3 your decision to select a gaming company and
4 do some development in the Lawrenceburg area.
5 And I think it doesn't make any sense for me
6 to stand here and think that you won't make
7 that decision, but I'm assuming that you
8 will.

9 I'm going to give you the opportunity
10 when you make that decision to pick an
11 alternative that either has no impact or
12 certainly minimizes the impact on this
13 historic resource.

14 And I'm going to give you the
15 opportunity that after you have done that,
16 you can separate this project from all of the
17 other projects that you have ever dealt with
18 and maybe from all the other projects that
19 you ever will deal with on this subject.

20 And you can go home and you can tell
21 your spouse, you can tell your children, you
22 can tell your grandchildren, you know, we
23 made some economic decisions here, and it was

1 good for the community. But we recognize at
2 the same time that there were some historical
3 and cultural resources to be preserved, and
4 we wanted to be a part of that, and we are a
5 part of that, and that's really our gift to
6 the community.

7 Thank you for your time.

8 MS. BOCHNOWSKI: Thank you very much.

9 MR. MARA: Thank you. By the way,
10 in case any of you are wondering, I can
11 confirm that all one thousand members of
12 Oxbow, Inc. are under five foot six in
13 height.

14 Now, I hope that you now agree with
15 us that after reading the materials we sent
16 to you and after hearing what we have had to
17 say to you today that the Oxbow is, indeed, a
18 very unique and valuable resource to the
19 state of Indiana.

20 But each of the gaming proposals has
21 the potential to upset the delicate balance
22 that has allowed the Oxbow ecosystem to
23 survive in the middle of so much human

1 activity.

2 Encroachment into the Ohio River
3 flood plain could affect the frequency,
4 duration and depth of seasonal flooding that,
5 in turn, could destroy the habitat that
6 certain plants and animals depend upon, but
7 in which they could not survive if the
8 habitat changed.

9 More buildings and more parking lots
10 will increase not only the amount of storm
11 water runoff into the Oxbow, but that storm
12 water is more likely to be contaminated with
13 oil and salt from parking lots and buildings.

14 Noise and lights at night could
15 disturb nesting activities of birds and bats.
16 Increased air pollution from increased
17 traffic and traffic jams could affect many
18 species. And that is just from the gaming
19 facilities themselves.

20 If gaming is as successful as the
21 potential licensees say it will be, and if it
22 stimulates the economy as this commission
23 presumably hopes it will, then spinoff

1 developments have even greater potential for
2 damage to the Oxbow Wetlands.

3 By way of example, I'll ask you to
4 turn to Exhibit 2. And I'm running -- I'll
5 move on. A number of billboard companies
6 have proposed as many as sixty billboards in
7 the Oxbow area. That's just an example of
8 the kind of thing that's spinning off from
9 this development.

10 If you look at Exhibit 3, you can see
11 that a citizen in the area who is a major
12 landowner has proposed a new highway along
13 the river, a new interchange with 275. These
14 examples point out to you the pressures for
15 further development as spinoffs from gaming.

16 Now, I'm not convinced that local
17 officials, particularly zoning authorities,
18 understand what is happening and are prepared
19 to take the steps necessary to insure quality
20 development. It is particularly alarming to
21 note that most of the Oxbow Wetlands in
22 Indiana are in the unincorporated area of
23 Dearborn County, and that the county has

1 zoned these wetlands for industrial
2 development. At this late hour, I don't know
3 whether the county has the legal ability or
4 determination to stop development in this
5 critical area and channel it elsewhere.

6 This Commission knows that after you
7 choose a licensee, that gaming company must
8 obtain permits from the various regulatory
9 agencies. We urge you to look beyond the
10 pretty pictures represented by the gaming
11 companies and be sure you pick a licensee who
12 you feel is committed to doing whatever it
13 takes to minimize damage to the Oxbow
14 ecosystem and to the area's archeological
15 resources.

16 We anticipate a period of intense
17 negotiation between us and whatever licensee
18 you choose. We will insist that nothing go
19 forward unless reasonable efforts are made to
20 minimize damage and protect the environment.

21 If necessary, we will use the
22 permitting process as a means of stopping any
23 undesireable proposal which would harm the

1 ecosystem. It is conceivable that if you
2 choose a licensee who turns out not to be
3 committed to the environment, that company's
4 proposal will be stopped in the permitting
5 process or in the courts and may never be
6 implemented. And I'm sure none of us wants
7 to go through this process another time.

8 It was my intention to stop there. I
9 would be happy to do so if you wish.
10 However, we're available to offer comments
11 regarding each of the proposals based on what
12 we learned the last few days.

13 MS. BOCHNOWSKI: Why don't we go
14 ahead and stop there? We'll have questions
15 for you. I'm sure that that will probably be
16 a question that will be asked.

17 MR. MARA: Thank you.

18 MS. BOCHNOWSKI: Thank you very much.

19 I think the way we have it scheduled,
20 we're going to hear from the Sierra Club and
21 then have a question and answer period
22 following that presentation.

23 MR. MARA: Thank you,

1 MS. BOCHNOWSKI: Now, it's my
2 understanding that you would prefer that we
3 sit down ---

4 MS. HAILE: You're fine.

5 MS. BOCHNOWSKI: We can stay here?
6 Okay. Thank you.

7 Just to stay on schedule, we've given
8 you fifteen minutes.

9 MS. HAILE: That's fine.

10 MS. BOCHNOWSKI: And the question and
11 answer period will go for however long.

12 MS. HAILE: Chairman Klineman,
13 Members of the Commission, Director Thar and
14 Staff, thank you for this opportunity to
15 appear before you today. My name is Lisa
16 Haile, and I'm the conservation chairperson
17 of the River Hills Group Sierra Club in
18 Southeast Indiana.

19 With me today are other members of
20 the River Hills Executive Committee, Richard
21 Wolker, Bob Carroll, Susan Coriell, Sharon
22 Carroll, as well as members of the Hoosier
23 Chapter Executive Committee, Bill Hayden,

1 Christine Pederson and Tom Ransburg.

2 I am here this afternoon because we,
3 the River Hills Group, and the Hoosier
4 Chapter of the Sierra Club, are very
5 concerned about how some riverboat gambling
6 development proposals would damage an
7 invaluable natural resource in our community,
8 harm air quality and diminish the quality of
9 life in Dearborn County.

10 Our purpose in being here today also
11 is to encourage you to consider the
12 alternatives before you. We are not here to
13 repeat what you heard from the Oxbow Group.
14 Like us, they work very hard to insure that
15 wetlands are preserved and that you remember
16 the environmental consequences of your
17 decision.

18 Instead, we will focus on some of the
19 other values of wetlands. I'll use our time
20 to explain our views on five key issues: The
21 Wetlands, flood control, air quality,
22 transportation alternatives and quality of
23 life.

1 As you know, wetlands are a natural
2 tool that control flood waters when rivers
3 overflow. The result is that fewer homes and
4 businesses are damaged or lost thanks to
5 wetlands and the protection they offer from
6 natural disasters.

7 Each year, floods destroy as much as
8 four billion dollars in property. And given
9 the floods along the Mississippi River this
10 spring and in recent years, that figure is
11 probably higher. The problem is that too
12 often development creates unnatural
13 disasters. We are trying to avoid an
14 unnatural disaster in Dearborn County.

15 In Indiana, wetlands are an
16 endangered natural resource. Of the original
17 five point six million acres of wetlands that
18 covered twenty-five percent of Indiana two
19 hundred years ago, eighty-six percent are
20 gone forever. And each year, we lose another
21 five percent of what's left because
22 development drains, fills and alters wetland
23 areas.

1 Several gaming companies seeking the
2 Dearborn County license have admitted to you
3 that they will destroy existing wetlands to
4 build their hotels, parking lots and access
5 roads. They say they'll create new wetland
6 areas to make up for the loss of what already
7 exists. Mitigation, they said, is the
8 answer. It's the way to have the development
9 and wetlands, too.

10 But, Chairman Klineman and Members of
11 the Commission, you should know that many
12 mitigation efforts don't work or fall short
13 of the goal. Many projects aren't completed
14 according to plan. Some aren't even started.

15 As so-called wetland restoration
16 experts across the country are learning in
17 humbling and expensive lessons, no one knows
18 a sure way to recreate the functioning
19 ecosystem. There is no shortage of examples
20 of wetland restoration failures, nor is there
21 any shortage of lawsuits that seek to
22 preserve wetlands.

23 Wetlands mitigation is not contained

1 in the development agreements. It seems
2 mankind has a misplaced arrogance to believe
3 it can improve on what nature provides. The
4 Clean Water Act mandates avoidance as a first
5 choice in these matters.

6 You have a first choice in Dearborn
7 County, and it is not what several developers
8 propose. We urge you to make a decision that
9 avoids taking wetlands and risky mitigation.
10 Projects which would develop the Oxbow
11 Wetlands and somehow replace what they take
12 through mitigation are unacceptable.

13 As a recently created governmental
14 body, your responsibility is very similar to
15 what faced the Lawrenceburg flood control
16 district when it was created nearly fifty-six
17 years ago. The flood control district's job
18 was to protect the city and its residents
19 from another flood like the one that
20 devastated Lawrenceburg in 1937.

21 Like the flood control district, your
22 job is to protect Dearborn County from
23 floods. Some might even suggest your job

1 also is to protect citizens from the
2 misplaced priorities of local officials.

3 In 1983, the flood control district
4 was replaced by the Lawrenceburg conservancy
5 district, which has broader flood control and
6 prevention responsibilities. The district
7 also has the ability to lease conservancy
8 property to a municipality such as
9 Lawrenceburg, which they apparently intend to
10 do if you select a wetlands development.

11 The municipality has the ability to
12 sublease the property to a third party.
13 However, the property must be used for flood
14 prevention and control.

15 There is no question that the city of
16 Lawrenceburg's intention to lease the
17 conservancy property to a gaming company
18 violates the state statute which created the
19 conservancy district. And we have submitted
20 a written legal opinion confirming this to
21 the Commission in the packet provided.

22 Who would have us believe that paving
23 over eighty acres of wetlands, building a

1 hotel, parking lots, shopping malls and other
2 permanent structures will prevent and control
3 flooding? Who would have us believe that all
4 that concrete is a water base recreational
5 facility? Only those whose primary concern
6 is gaming revenue.

7 Given all that, it should come as no
8 surprise to you or anyone else that the
9 Conservancy District Board includes three of
10 the five members of the Lawrenceburg City
11 Counsel, which endorsed gaming companies that
12 want to build on conservancy land.

13 We'll never know what the original
14 members of the Lawrenceburg flood control
15 district would say about this conflict of
16 interest and threat to flood control and
17 prevention. With your decision, however,
18 we'll know what you have to say about it.

19 You also have something to say about
20 air quality, an issue that's often overlooked
21 in a discussion about the environmental
22 consequences of riverboat development. The
23 United States Environmental Protection Agency

1 has very clear strict guidelines about
2 allowable levels of such air pollutants as
3 carbon monoxide, lead, nitrogen dioxide,
4 sulfur dioxide and inhalable particulate
5 matter.

6 A major source for these pollutants
7 is vehicle exhaust. Dearborn County is part
8 of the tri-state area that includes Northern
9 Kentucky and Southwest Ohio. It's also a
10 region that is in violation of federal air
11 quality standards. To use bureaucratic
12 jargon, it's in moderate nonattainment
13 status.

14 In particular, Dearborn County has
15 exceeded acceptable levels for sulfur
16 dioxide, and the entire region is in
17 nonattainment status for ozone. This week's
18 hot weather has brought ozone warnings to the
19 tri-state region, and last summer, the area
20 was one warning day away from being
21 classified as a serious nonattainment area, a
22 ranking that could lead to the loss of
23 federal funds, including highway dollars.

1 Bringing in thousands of additional
2 cars each day, millions of them over a year's
3 time, and forcing them to use an already
4 overburdened U.S. 50 will make matters worse.
5 On hot days like we've had this week, the
6 Ohio River Valley traps emissions. And when
7 the prevailing wind blows east, pollution to
8 the east, it goes toward Cincinnati, which
9 cannot afford even one more day in violation
10 of the Clean Air Act.

11 In Ohio, Hamilton County's air
12 quality division is developing comprehensive
13 cost-effective solutions to enable the
14 tri-state area to meet air quality standards.

15 Working with the Ohio Kentucky
16 Indiana Regional Council of Governments, to
17 which Dearborn County does not currently
18 belong, but has expressed an interest in
19 rejoining, officials are investigating the
20 potential of commuter rail service. They
21 even have bought property with existing but
22 inactive rails for the purpose of creating a
23 commuter rail line.

1 The Sierra Club strongly supports
2 these efforts, and we urge Dearborn County
3 officials to work with OKI to develop
4 solutions to air quality problems. Proposals
5 which rely on bus and auto traffic on U.S. 50
6 are a step in the wrong direction.

7 This week, we've been pleased to
8 notice your interest and concern about the
9 traffic problems several riverboat proposals
10 will create. These proposals will do nothing
11 more than redirect traffic and do not solve
12 the problem of reducing traffic.

13 There is no question that increased
14 traffic, more cars, more buses, will be a
15 very serious problem for the entire county.
16 And, as you know, from the impassioned
17 testimony of Greendale officials during our
18 public hearings in Vevay, it's also an issue
19 that has the attention of some, but not all,
20 municipal leaders.

21 Traffic on U.S. 50 is a major
22 problem. But let's not forget traffic
23 overflow on the secondary roads when U.S. 50

1 backs up due to an accident or other problem.
2 Even without gaming, this is a big problem
3 now. Imagine what it will be like with a
4 riverboat development that relies on U.S. 50
5 as the main access road.

6 This week, you have heard from
7 applicants who say widening U.S. 50 to
8 add a left-turn lane is the answer. Others
9 would have you believe the solution is a new
10 road, one that cuts through the wetlands
11 along the rail bed.

12 These are not long-term solutions.
13 They are not even short-term fixes. The plan
14 to add a turning lane on U.S. 50 will not, as
15 one developer said the other day, increase
16 capacity for existing traffic, let alone
17 riverboat traffic.

18 And other gaming companies already
19 facing a lengthy permit process for their
20 land base facilities now propose to extend
21 the process further by attempting to build a
22 new roadway in the flood plain.

23 These projects, as unlikely as they

1 may be, would take years to build, and they
2 won't help Dearborn County deal with traffic
3 during the several months, perhaps much
4 longer, that a temporary facility would be
5 open.

6 When you consider the alternatives,
7 the irony is that these far-fetched proposals
8 to build new roads, lanes and ramps are more
9 expensive to build, more dangerous and
10 require higher maintenance costs. Like the
11 environmental choices you have, you also have
12 choices when it comes to traffic and the
13 impact on our daily life in Dearborn County.

14 Which brings me to a final comment.
15 No matter which riverboat proposal you
16 select, things will not be the same in
17 Dearborn County. Please understand, our
18 purpose in coming here today is not to debate
19 the reality of riverboat gambling. We
20 neither support nor oppose riverboat
21 gambling.

22 That decision has already been made.
23 Therefore, your decision should be guided by

1 which development is compatible with the
2 lifestyle we have worked very hard to create
3 and preserve in Dearborn County.

4 If your choice ultimately makes life
5 in Dearborn County worse because traffic
6 chokes our streets, because the wetlands are
7 destroyed, because the character and culture
8 of Dearborn County are lost, then we haven't
9 gained anything. We won't be better off no
10 matter how much tax revenue flows into
11 municipal budgets. We are not blindly
12 opposed to progress, but we do oppose blind
13 progress.

14 Chairman Klineman, Members of the
15 Commission, your decision comes down to the
16 handful of issues we have presented to you
17 this afternoon, preserving the wetlands, the
18 legal ability to make conservancy land
19 available for permanent change that has
20 nothing to do with flood prevention and
21 control, air quality, transportation
22 alternatives and changing forever the quality
23 of life in Dearborn County.



1 You have an enormous responsibility,
2 one that requires you to consider those
3 issues and balance them with the needs of the
4 citizens of Dearborn County and the State of
5 Indiana.

6 You have demonstrated during these
7 hearings a willingness to look at all the
8 evidence, to consider all the options. We
9 trust you will continue on that path and make
10 a wise decision. Thank you.

11 I would just like to add that
12 included for your needs and for any audience
13 needs, included in our packet that we have
14 submitted is a history of the Sierra Club
15 accomplishments on behalf of public health
16 and safety and preserving the earth's natural
17 resources in wild places; the July 23, 1994,
18 Hoosier Chapter Resolution stating that this
19 Commission select a riverboat operator whose
20 development plans best address the
21 environmental issues; a summary of the issues
22 we feel the Commission must resolve prior to
23 the issuance of the certificate of

1 suitability; a short list of examples of
2 wetland restoration project failures; a
3 comment letter and resolution from the
4 Hoosier Environmental Counsel, a coalition of
5 seventy environmental organizations in
6 Indiana representing forty-five thousand
7 individual members; and, lastly, a written
8 legal opinion from the Indianapolis law firm
9 of Bamberger & Feibleman outlining our
10 opinion with regard to use of conservancy
11 district property for gambling business
12 purposes.

13 Thank you.

14 MS. BOCHNOWSKI: I mean, you're on
15 time. Thank you very much.

16 Okay. Now, we can go right to the
17 question and answer period. And as you
18 answer the questions, please repeat your name
19 and your affiliation so that our court
20 reporter doesn't have to stop you.

21 MR. VOWELS: We heard something
22 earlier this week that the Oxbow area was
23 actually created when the levy system was

1 built. Would you care to respond to that?

2 MR. MARA: Well, it's difficult to
3 say with certainty. Clearly at the time the
4 levy was built, they had to get borrow from
5 somewhere. And I suspect that some of the
6 low-lying areas were, indeed, created. That
7 would be the ones on the conservancy district
8 property only.

9 If you want to look at Exhibit 1, the
10 area right above -- see where I have printed
11 Conservancy District, the C in conservancy,
12 right above there is a rectangular area.
13 It's a depression. And clearly that is a
14 man-made depression or wetland. The others
15 are less certain.

16 But there is no doubt that this
17 particular area -- and I want to use this
18 map -- this particular area was, indeed, a
19 wetland historically over the millenium
20 before the levy was created.

21 MR. SUNDWICK: I look at this plot of
22 land in the district. What percent -- I
23 mean, the hotel certainly is a relatively

1 large project. But in light of the amount of
2 property and land, they really are a
3 relatively small percent.

4 MR. MARA: Well, you have a good
5 point.

6 MR. SUNDWICK: My question is is
7 that, you know, does that small percent
8 really harm the ecosystem? You said there
9 wasn't anything there that was -- appeared to
10 be an endangered species.

11 MR. MARA: Well, the problem, of
12 course, is not so much just the loss of that
13 particular acreage, but its impact on the
14 entire ecosystem. As Mr. Armentrout pointed
15 out, everything is so intimately tied
16 together, if you affect one thing, there's a
17 chain reaction potential.

18 And also, just to deal with the very
19 specific things that occur, increased storm
20 water runoff, salt and oil from the parking
21 lots, the parking garages into the water of
22 the wetlands, that could affect the entire
23 area.

1 They haven't proven to us in their
2 analysis that they've really done an in-depth
3 study how to deal with salt and water from
4 parking lots, how to deal with noise and
5 light pollution and so on.

6 I think they're all talking a good
7 story here, but we're not getting any
8 specific measures that they are taking to
9 minimize the impact on the environment.

10 Now, having said that, I think we've
11 got their attention. And a number of these
12 companies have changed their plans over time
13 to try to address the Oxbow Wetland concerns.
14 And so all the gaming companies' plans as
15 they stand today are far better than they
16 were a year ago when they originally started
17 with this submission process. They're moving
18 in the right direction; they just haven't
19 gotten there yet.

20 MR. SUNDWICK: Yeah. That brings us
21 to is there any one of the proposals that you
22 would deem more appropriate than another?

23 MR. MARA: I knew you would ask that

1 question, and I'd rather not pick one. But
2 if you want, I can make a few observations
3 about each of them. That might be helpful to
4 you.

5 With regard to Ameristar, they
6 propose to use the conservancy district site.
7 And that's the site that potentially has the
8 greatest impact upon the environment.
9 Ameristar has been very careful to work with
10 us over time. They spent a lot of time. We
11 have a certain comfort level with them. And
12 they've altered their plan drastically.

13 If you look at Exhibit 1 again,
14 you'll see right above the -- or below this
15 time the conservancy district label is a
16 drainage ditch which bisects the conservancy
17 district site.

18 Originally, they proposed to use all
19 that land for development. But after we
20 worked with them, they deleted development to
21 the northeast and limited it to the left side
22 of that drainage ditch, the west side.

23 MS. BOCHNOWSKI: The drainage ditch

1 is that long --

2 MR. MARA: That long blue line.

3 MS. BOCHNOWSKI: Right down here.

4 MR. MARA: That's correct.

5 MS. BOCHNOWSKI: So they're talking
6 about in here.

7 MR. MARA: That's correct.

8 So they limited development to the
9 southwest of that blue drainage ditch there.
10 And even then, they have proposed to use that
11 area only for an RV park. And we're going to
12 do some arm-twisting if they get the license
13 to get them and the city to agree to delete
14 the RV park, and hope you'll go along with
15 that deletion as well.

16 And they propose by way of mitigating
17 the loss of wetlands along the river itself
18 to use that northeast area for recreated
19 wetlands. And although that may not be
20 ideal, we think that's a very positive thing.
21 And so we feel pretty good. There's a lot
22 more we need to hear from them, but they've
23 worked in the right direction.

1 Now, with regard to Argosy, they,
2 too, originally proposed to use the
3 conservancy district site. But when we and
4 others spoke up, the Sierra Club and Oxbow,
5 about the wetland problem, Argosy then
6 switched plans and put their main development
7 inside the city levy, in that little area,
8 that triangle right -- see where it says
9 BM489, just to the left of that. That's an
10 area inside the levy. So to that extent,
11 they were not encroaching upon conservancy
12 district property. And that was a very
13 positive step.

14 They do, however, have an area right
15 where it says Old Town where they're going to
16 be doing their docking facilities. And
17 they'll be affecting some wetlands there,
18 which they'll have to mitigate.

19 And the one negative thing I can say
20 about that is that they have not presented a
21 mitigation plan. And they said they would do
22 so in the presentation to you, but we haven't
23 seen any. So we don't know how good that

1 plan would be or how serious they are about
2 that. But certainly they have made some
3 positive steps.

4 With regard to Boomtown and Boyd,
5 they are certainly to be commended for
6 picking a site remote from the Oxbow
7 Wetlands. That's a very positive thing to
8 see that. And certainly the only thing we
9 would ask of them is we'd like to see their
10 computer modeling to show that their
11 encroachments into the flood plain don't
12 cause a backup of the water and affect the
13 duration, frequency or depth of the flooding
14 in the Oxbow Wetlands.

15 The one negative aspect of Boomtown
16 and Boyd in using a downstream site is that,
17 of course, the traffic situation may be such,
18 as was alluded to by the people from the
19 Sierra Club, that the traffic will back up
20 into town through U.S. 50 near to the Oxbow
21 Wetland area, and we may have an air
22 pollution problem.

23 We would like to see a lot more study

1 done on the air pollution implications of
2 using those downstream sites. I know from
3 being in that area that there's a traffic jam
4 today. And we add more traffic, there's
5 going to be more traffic, more pollution in
6 the future.

7 With regard to Empire, initially
8 Empire came to us and wanted to work with us
9 and the Indianapolis Zoo and the Cincinnati
10 Zoo and the Cincinnati Museum of Natural
11 History with its wetland interpretive center.

12 It sounded like a good idea until we
13 learned more and more about it. And we're
14 not enthused about it. And I think because
15 of our concern, the Cincinnati Zoo and the
16 Museum of Natural History dropped out of that
17 proposed partnership. And we're very uneasy
18 with the concept of destroying wetlands to
19 create a wetland interpretive center.
20 There's just something not quite right about
21 that process.

22 And I have to tell you, there were a
23 number of things said to you during their

1 presentation about working with Oxbow which
2 were simply not true. Dr. Maurer of the
3 Indianapolis Zoo described communication with
4 us as being an ongoing dialogue. That is not
5 the case.

6 Dr. Miller described communication
7 with us as being on a constant basis. That
8 is not the case. We have had very little
9 communication with Empire in the last several
10 months since that interpretive center fell
11 through. And we don't want you to think
12 we're working with them. We are not. And we
13 have concerns about that.

14 With regard to Lady Luck, they, too,
15 are to be commended for picking a site
16 somewhat removed from the Oxbow Wetlands,
17 though their site is on the edge of the Oxbow
18 Wetlands. And we think it's wonderful that
19 they're considering an alternative to moving
20 people around on the railroad and so on.
21 That has to be commended.

22 We are concerned that they have some
23 property on the south side of U.S. 50 which

1 they described to you as being available for
2 future expansion. That is land within the
3 Oxbow Wetlands. They also propose to use
4 part of that for storm water runoff
5 retention. And that water will go into the
6 Oxbow Wetlands, and we're bothered by that.

7 And we are concerned also with their
8 proposal to raise the level of the Indiana
9 railroad line by about four or five feet so
10 it would serve the duplicate purpose of
11 floodproofing the Greendale industrial park
12 area.

13 If that area is floodproof because of
14 the nature of the river coming up and the
15 ground water coming up and the water coming
16 up through the ground and flooding that area,
17 like Lawrenceburg, they will have to use
18 pumps to pump the water from that flooded
19 area to keep the industry dry into the Oxbow
20 Wetland area.

21 And we're concerned about the
22 quantity of the water, whether that affects
23 the water levels. And we're very concerned

1 about the quality of that water which would
2 be coming off the roofs of factories and
3 parking lots. And that's oil and salt.

4 These are things that need to be
5 studied. I don't know how they're going to
6 complete that kind of study within the
7 timetable for this particular gaming project.

8 Those are my quick observations on
9 each of those gaming proposals. I hope that
10 helps you.

11 MS. BOCHNOWSKI: Maybe -- Lisa Haile,
12 maybe your group -- have you looked at that
13 at all on these proposals?

14 MS. HAILE: My name is Lisa Haile.
15 I'm with the River Hills Sierra Club. I'm
16 sorry. I didn't hear you.

17 MS. BOCHNOWSKI: Okay. I'm sorry.
18 What I'm wondering, could you make some
19 similar observations from the Sierra Club
20 point of view? And can you speak up also
21 because of our court reporter? In fact, I
22 didn't do that either. Maybe you could offer
23 some similar observations.

1 MS. HAILE: Okay. Do you want me to
2 just start with each company as Tim did?

3 MS. BOCHNOWSKI: You don't have to
4 maybe in such detail.

5 MS. HAILE: Not as specific. Not as
6 specific.

7 MS. BOCHNOWSKI: Right.

8 MS. HAILE: We met with those
9 companies that we had specific concerns about
10 the -- their development in the wetlands. We
11 did not meet or were not asked to meet -- and
12 I can say that the companies we did meet with
13 that they requested that we meet with them.

14 We did not meet with the companies on
15 the -- that are proposing on the west side,
16 unless they were -- in our opinion, unless
17 they were prepared to move their site
18 completely to the east side of town outside
19 the conservancy district land. I don't think
20 we were given the impression that they were
21 going to be willing to address any concerns
22 that we had.

23 MS. BOCHNOWSKI: So I'm confused.

1 Are we getting east and west mixed up?

2 MS. HAILE: Okay. We did not meet
3 with the west side sites.

4 MS. BOCHNOWSKI: Isn't the west
5 side --

6 MR. KLINEMAN: The Tanner Creek area.

7 MS. HAILE: Okay. I'm saying we did
8 not meet with the west side sites. We did
9 meet with the east side.

10 MS. BOCHNOWSKI: And you did meet
11 with the conservancy district area ones.

12 MS. HAILE: Yes.

13 MS. BOCHNOWSKI: Okay. And including
14 Lady Luck?

15 MS. HAILE: It's not on the
16 conservancy property.

17 MS. BOCHNOWSKI: Okay.

18 MR. VOWELS: When did you meet with
19 west side?

20 MS. HAILE: We did not meet with
21 Boomtown specifically. I'm sorry. We did
22 review all of their applications of Phase 1
23 and Phase 2 completely independent of the --

1 MR. VOWELS: What's your position on
2 their site?

3 MS. HAILE: The west side?

4 MR. VOWELS: The west side by
5 Boomtown and Boyd.

6 MS. HAILE: They do have a small, not
7 a significant, problem to deal with with
8 Wetland mitigation. But still it is
9 mitigation which, you know, we have taken the
10 position that there are alternative sites
11 that avoid mitigation, and those are the only
12 sites that should be considered.

13 MR. VOWELS: Where would that be?
14 Where would be the most acceptable site? If
15 there had to be a boat and you had to choose
16 in Dearborn County, where would that be?

17 MS. HAILE: We would choose the east
18 side site outside the conservancy district,
19 which would be Lady Luck.

20 MR. VOWELS: Okay.

21 MS. BOCHNOWSKI: Thank you.

22 MR. VOWELS: What are the settling
23 ponds that I see on Exhibit 1, land

1 preservation map? Keep in mind I know
2 nothing. Is this water above land or water
3 under land, the settling ponds on the left?

4 MR. MARA: Are you referring to the
5 ones on the west site?

6 MR. VOWELS: Correct.

7 MR. MARA: I'm not sure I can answer
8 your question about settling ponds. What are
9 they?

10 MR. VOWELS: Are they something I can
11 go up to and there's water standing there?

12 MR. MARA: I think it has something
13 to do with the power plant and their
14 material, but I'm not clear on that.

15 MR. VOWELS: Settling ponds, that's
16 not anything of any concern to your group?

17 MR. MARA: Not to the Oxbow Wetland
18 Group, no.

19 MR. VOWELS: As far as environmental
20 concerns.

21 MR. MARA: I'm afraid we have not had
22 the luxury of resources to study the west
23 side as we have the east.

1 MR. VOWELS: I don't know what a
2 settling pond is.

3 MR. MARA: It's something to do with
4 the power plant. But I don't know if anybody
5 has anything more specific.

6 MR. VOWELS: It's not something
7 that's a concern of an environmental group?

8 MR. MARA: No.

9 MR. SUNDWICK: In your opinion -- we
10 talked about, you know, lawsuits have been
11 mentioned, the law regarding using the
12 district for other than flood control or
13 water.

14 MR. MARA: We have not studied the
15 legalities of using the district. The Sierra
16 Club has, but we have not.

17 MR. VOWELS: Are you licensed to
18 practice in Indiana?

19 MR. MARA: We have Indiana counsel,
20 and we've not asked him to do that.

21 MR. VOWELS: Okay. Are you an
22 attorney?

23 MR. MARA: Yes, I am.

1 MR. VOWELS: Okay. Where?

2 MR. MARA: Cincinnati.

3 MR. VOWELS: Cincinnati?

4 MR. MARA: I'm Oxbow's corporate
5 attorney.

6 MR. VOWELS: That's fine. Looking at
7 this statute that talks about the purposes of
8 establishing districts, conservancy
9 districts, have you looked at that at all in
10 the Indiana codes in reference to that?

11 MR. MARA: Only at a glance. And I
12 wouldn't want to express an opinion. Mr.
13 Douglas Denmure is our attorney in Aurora,
14 and he's not here today. I'm sorry. But we
15 would refer such a question to him.

16 MR. VOWELS: It would seem to be that
17 it all turns on Subparagraph 6 that speaks of
18 recreational facilities where people clash
19 with fish and water management.

20 MR. KLINEMAN: You said something
21 about Ameristar, and I guess I didn't
22 understand completely what your opinion of
23 Ameristar's program was.

1 MR. MARA: Well, we have a high level
2 of comfort with Ameristar, and we're pleased
3 that they have made such a drastic change in
4 their proposal to the point that they almost
5 deleted use of the conservancy district
6 property for any of the activities and,
7 instead, have substituted mitigation of a
8 large area of wetlands. I believe it's
9 thirty-two acres they propose to create. I
10 think it's a rather dramatic proposal on
11 their part, and we're pleased with that.

12 MS. BOCHNOWSKI: So even though
13 mitigation may not always work, they're
14 not -- they're mitigating wetlands that
15 aren't directly in the Oxbow area.

16 MR. MARA: Yes. The only wetlands
17 that they're destroying, if you will, is the
18 area between the railroad track and the Ohio
19 River, which doesn't function quite as part
20 of the Oxbow Wetlands, and is certainly
21 separated by the railroad, which impacts that
22 area.

23 That wetland along the river -- and

1 this would be true of other gaming
2 companies -- is probably not of a quality
3 similar to the Oxbow Wetlands.

4 MS. BOCHNOWSKI: What's the -- when
5 these people come in to do these developments
6 and you've got bulldozers and all this kind
7 of stuff, is there a way to -- what's the
8 impact of that? Is there a way to keep them
9 in a certain area? Is there -- what about
10 when they start digging and dredging? Does
11 that drain water from the wetlands?

12 MR. MARA: It's a serious problem.
13 And what we intend to do, once you've picked
14 a licensee, is to get with them on the
15 specifics of construction. Because just
16 getting to the site may inadvertently destroy
17 some wetlands.

18 And I should add, we didn't talk
19 about archeology. We've done an archeology
20 study. The area is loaded with archeological
21 artifacts and sites. And we're very
22 concerned that those will be destroyed in the
23 process.

1 We are going to insist that whatever
2 gaming company gets a license in this area
3 that they hire an archeologist suitable to us
4 who will be on-site at certain critical times
5 to observe the excavations and confirm that
6 they are not uncovering any archeological
7 artifacts that are of significance, and that
8 if they do, they then proceed to follow the
9 Indiana state law regarding contact of the
10 state agency in charge of such matters, and
11 see to it that the proper relocation for
12 identification and recording of those
13 artifacts is performed.

14 Also, there have been uncovered human
15 remains in this particular area.

16 MS. BOCHNOWSKI: So are you saying it
17 may be a burial site?

18 MR. MARA: It could very well be a
19 burial site. So we don't expect it to be a
20 large thing. But when they come across human
21 remains, you know, you got a guy behind a
22 bulldozer, and he just when nobody's looking
23 keeps on moving, we want to make sure that

1 kind of thing doesn't happen.

2 MR. KLINEMAN: Getting back to your
3 comments on Boyd and Boomtown, you said that
4 they might cause flood problems. The only
5 way they would cause flood problems is if
6 they were doing something that blocked the
7 river and, therefore, backed it up.

8 MR. MARA: That's correct.

9 MR. KLINEMAN: Do you see anything on
10 their plans that would give you concern that
11 they are going to create such a water
12 barrier?

13 MR. MARA: Yes. During the
14 presentations, there was talk of a
15 substantial fill. I think I remember the
16 figure of seventeen feet on the building
17 site, five feet in the parking area.

18 We would like to see -- I presume
19 they've done it. We would like to see their
20 computer modeling. We have an expert, an
21 hydrology expert, that we retained who could
22 review that material and decide whether, in
23 fact, the effect upstream is significant or

1 not significant.

2 For example, the Oxbow Lake that you
3 see on the map that's the center of all this,
4 that's a lake that's only about three feet
5 deep in a large area.

6 Now, if the impact of that fill
7 downstream is such that it raises or lowers
8 the level of flood waters in the vicinity of
9 the Oxbow Lake by a foot or two, that could
10 be significant in terms of the kinds of life
11 that exist in that lake.

12 There are certain creatures that like
13 shallow lakes and certain that like deep
14 lakes. We want to see from them what the
15 impact is on the flooding upstream, and we
16 haven't seen any such thing to date. They
17 may have it; we'd like to review it.

18 By the way, at one point, we did
19 write to all eight gaming companies involved
20 at that time, telling them of our concern
21 about the effect on hydrology, asking if
22 they'd all pool their resources to do one
23 hydrologic study so we could find out once

1 and for all what the story was.

2 And one or two said they'd
3 participate, and the others said they would
4 not. So that's why we don't have our own
5 independent analysis to give to you at this
6 time.

7 MR. SUNDWICK: Somebody used the term
8 devistating effect. What are those?
9 Devistating, you know, I mean.

10 MR. MARA: You're asking me almost to
11 review that entire thick report.

12 MR. SUNDWICK: The end of the world.

13 MR. MARA: Well, we get a little
14 dramatic to make a point.

15 MR. SUNDWICK: Well, maybe they are.
16 I just don't know what they are.

17 MR. MARA: Our concern is, as Mr.
18 Armentrout pointed out, that all these
19 things, these creatures, interact in the
20 Oxbow Wetlands. He talked about the fishes
21 that come in and the birds that come and eat
22 the fish.

23 And the fish have muscle. There's

1 muscles in the Oxbow Lake. Some of them are
2 not endangered, but they're fairly rare.
3 Those muscles attach themselves to the fish
4 with their eggs.

5 And all this is related. We don't
6 know how any one of these proposals affects
7 that chain of life. And if one critical
8 element of that chain is removed, then, if
9 you will, there will be devistating effect on
10 that ecosystem in that area. It won't be the
11 special area it is today.

12 And I should point out that this area
13 is an area of migrating birds from the South,
14 Florida, up to Canada. And they stop at this
15 particular area. It's a special location.
16 So it's of some national significance.

17 MR. KLINEMAN: If we choose a
18 licensee, you say you then intend to send a
19 letter to them and get into some kind of a
20 program to review what they're going to do
21 and so forth and so on.

22 I guess I would urge that to happen,
23 except that I also would wonder whether your

1 group would be -- or would understand that we
2 all maybe have to live together, and that the
3 optimum that someone would want would not be
4 possible.

5 See, I'd certainly like to avoid any
6 possibility of litigation. And so if
7 reasonable people go into a situation like
8 that in a reasonable manner, we could
9 probably avoid anything like that, although
10 the gauntlet's been thrown out a couple of
11 times in the presentation.

12 MR. MARA: I think you're absolutely
13 right, sir. Early on, the Oxbow Board met
14 and debated the question: Should we be
15 opposed to gaming or should we try to work it
16 out?

17 And we all decided we didn't want to
18 go through years of litigation. And as long
19 as the gaming companies would be reasonable
20 in dealing with the environment, we would go
21 along with them.

22 And I think that's clear from our
23 statements today, that we are not so



1 particular that we're going to insist that no
2 wetlands be lost in this process. For
3 example, we're not saying you can't use that
4 riverfront wetland area.

5 We will be reasonable as long as the
6 gaming companies have been reasonable.
7 They've all shown us pretty pictures. Some
8 of them have shown us very nice plans. We
9 have to fill in all the details in this
10 process.

11 MR. KLINEMAN: Some of them have
12 indicated a positive, to use your phrase.

13 MR. MARA: I'm optimistic. As long
14 as they don't leave next Friday's meeting
15 saying, Aha, I've got the license. We're not
16 going to talk to Oxbow anymore. As long as
17 they don't take that attitude, then we can
18 work things out.

19 MR. KLINEMAN: I think we might tell
20 them that is not the position that they
21 should take.

22 MS. BOCHNOWSKI: I think you've
23 gotten their attention, because everybody is

1 dealing with it in one form or another, at
2 least in front of us.

3 MR. MARA: And I think it's been very
4 helpful that this Commission has asked them
5 very pointed questions about the environment.
6 So we appreciate that.

7 MR. KLINEMAN: I'd just like to --
8 Lisa Haile, along the same lines, I mean, you
9 likewise have indicated that --

10 MS. HAILE: Right.

11 MR. KLINEMAN: -- you might get
12 involved in the permitting and so forth and
13 so on.

14 MS. HAILE: It's true, you know.

15 MR. KLINEMAN: We would very much
16 like not to have that happen.

17 MS. HAILE: We would prefer a spirit
18 of cooperation. That is true. But we are --
19 there are - you know, there are laws that are
20 on the books to protect the public health and
21 safety, and --

22 MR. KLINEMAN: For instance, I mean,
23 the conservancy district problem I

1 understand. But when you get into air
2 quality, I mean, whatever we're going to do
3 here is not going to represent such a
4 substantial degradation of the air quality in
5 the tri-state area.

6 I mean, how many cars would be going
7 to a boat would cause the whole thing to
8 tilt? I mean, I guess that's the sort of
9 thing that I think these people would have
10 absolutely no control over. That's my
11 answer. I mean, you can be against them on
12 that basis, and you'd never get any place.

13 MS. HAILE: I think that we would
14 consider a million cars a year on a very
15 short stretch of highway sitting, parked,
16 idling, waiting to get through, not much
17 different than what happens now, will have
18 significant impact on the air quality.

19 MS. BOCHNOWSKI: When you say that
20 this is a nonattainment area, is it a
21 nonattainment area such that -- you know, we
22 have that up north, where if you don't do one
23 thing, you can't have any businesses or so

1 on. Is it that?

2 MS. HAILE: Yes. The tri-state area
3 is. And right now, I don't believe that
4 that --

5 MS. BOCHNOWSKI: This probably
6 wouldn't follow under that.

7 MS. HAILE: The Ohio side of that
8 with Hamilton County being in nonattainment
9 status for ozone, that's not going to impact
10 Dearborn County.

11 But now if the county rejoins the
12 OKI, then it will become an issue. They will
13 be asked to try to comply with OK standards
14 that have been established.

15 MR. CARROLL: If I may comment on
16 that. Bob Carroll. The nonattainment area,
17 achieving nonattainment for Hamilton County
18 will have an effect on Dearborn County.

19 A big percentage of Dearborn County
20 commute to Hamilton County to work. And if
21 they achieve nonattainment, there will be a
22 restriction on the use of automobiles.

23 There is no alternative



1 transportation for us down there. So you
2 either have a fantastic increase in van
3 pooling or the cars are out. So it does
4 make a difference. It does affect Dearborn
5 County.

6 MR. KLINEMAN: But there's nothing
7 that these people can do except not operate.

8 MR. CARROLL: We can do something.

9 MR. KLINEMAN: If you're going to say
10 we like Lady Luck, that they have the
11 alternative, people still have to get to the
12 Lady Luck location by car or bus or
13 something. And that's going to create
14 pollution.

15 I mean, you're really leaving it to
16 the place where I believe there -- none of
17 the proposals are acceptable to you. And
18 that causes me concern.

19 MR. CARROLL: They don't have to sit
20 in a two-mile long parking lot, which is
21 essentially what's going to happen in that
22 area. With approximately a thirty to
23 thirty-three percent increase in cars,



1 that's going to make a significant impact on
2 the air pollution problem down there.

3 MR. KLINEMAN: The statistics on the
4 thirty-three percent increase in traffic, I
5 don't think I've seen anything that tells me
6 that. Are there studies that actually show
7 that?

8 MR. CARROLL: We're talking about --

9 MR. KLINEMAN: A million cars a year?

10 MR. CARROLL: They are projecting
11 eight to ten thousand additional automobiles
12 a day.

13 MR. KLINEMAN: Eighth to ten
14 thousand.

15 MR. CARROLL: A day.

16 MR. KLINEMAN: A day?

17 MR. CARROLL: Yes. That's somewhere
18 between a twenty-eight and a thirty-three
19 percent increase in automobiles.

20 MR. KLINEMAN: You know, if you
21 really have somebody who said that that's the
22 kind of volume of traffic that's going to
23 come.



1 Well, as I said when I started, I
2 mean, I can can be very sympathetic with some
3 of the goals that you have in your booklet.
4 But some of these I just -- it leaves us with
5 no place to go.

6 MR. SUNDWICK: You find yourself in a
7 Catch 22 in the fact that you say, well,
8 let's be sensitive to everything you want.
9 If we're sensitive to everything, you say,
10 well, we really don't like your place any
11 more, but you can't drive there. I mean,
12 what is it --

13 MR. CARROLL: Well, what we're saying
14 is that wherever possible, avoidance should
15 be what's the accepted norm, whether that's
16 traffic or whether that's wetlands.

17 I mean, you can talk about mitigating
18 wetlands. We believe that wetlands don't
19 have to be mitigated if you avoid the
20 wetlands. We don't think that you have to
21 contend with an increase in air pollution
22 that a thirty percent increase in automobile
23 traffic is going to produce if you have some



1 viable options for transportation. We're just
2 saying look at those things and choose those
3 things that give us the options.

4 MR. KLINEMAN: We're trying to.

5 MR. CARROLL: And we appreciate that.

6 MR. KLINEMAN: But --

7 MR. THAR: Let me ask you one other
8 question. If we take this to the logical
9 conclusion, let's assume for the moment the
10 Commission says all right, we won't put a
11 boat in Dearborn County. We'll just put a
12 boat in Ohio County.

13 What does that do with regard to your
14 concerns?

15 MR. CARROLL: You're going to have
16 the same problems with air pollution. Some
17 of the other environmental concerns naturally
18 are gone. But air pollution would be still a
19 significant problem.

20 I think when you look at the traffic
21 patterns probably for Switzerland County is a
22 lot less problematic than Ohio County. But
23 Ohio County, particularly with its very close

1 proximity to Dearborn County, would pose the
2 same kind of traffic problems with the same
3 kind of pollution if that's the only option
4 for people arriving at the riverboat.

5 MR. THAR: So your concerns with the
6 Sierra Club stretch beyond Dearborn County?

7 MR. CARROLL: That entire area is the
8 area that this River Falls Sierra Club
9 represents, Ohio County, Switzerland County,
10 Ripley County, Franklin County.

11 This is not just a Dearborn County
12 issue for us. It's a total issue. The main
13 issue, I think, for Ohio County for us is
14 what's going to happen trafficwise with air
15 pollution.

16 MR. THAR: Do you have any other
17 concerns with regard to Ohio County, either
18 Oxbow or Sierra?

19 MS. HAILE: There is a -- we do have
20 a concern about the Ohio County company's
21 proposal to dredge a new channel to -- for
22 the safety issue of the boat, the dredging,
23 the soil erosion. And we will be monitoring

1 that through the permit process.

2 MR. THAR: What about Switzerland
3 County?

4 MS. HAILE: We -- you have to please
5 bear in mind that we are a small grassroots
6 organization down there, and we have some
7 limited resources. We have kept track of the
8 site and the issues and the proposals down
9 there, and we chose to focus our attention on
10 Dearborn County.

11 MR. VOWELS: Well, speaking of the
12 traffic concerns and pollution concerns, were
13 those articulated during the referendum
14 campaign? Did you bring those to the public
15 and to the voters? Were they aware of those
16 issues?

17 MR. CARROLL: Could you repeat the
18 question, please? Bob Carroll.

19 MR. VOWELS: During the referendum,
20 did you articulate to the public or your
21 group bring out these issues, they were part
22 of the campaign and the voters were aware of
23 what the ramifications may be?



1 MR. CARROLL: Sierra Club was not
2 involved in the campaign relative to the
3 referendum.

4 MR. VOWELS: I don't mean for a yes
5 or no vote, but just to educate the public.

6 MR. CARROLL: Yes. We have educated
7 them by the local newspapers. We have
8 appeared before the Council, before
9 Lawrenceburg Council, before County Council
10 to express our concerns on the whole array of
11 environmental issues.

12 MR. VOWELS: Prior to the vote; is
13 that correct?

14 MR. CARROLL: Prior to the selection
15 process?

16 MR. VOWELS: No, prior to the
17 referendum in Dearborn County.

18 MR. CARROLL: No, it was not.

19 MR. VOWELS: Why not?

20 MR. CARROLL: To be very honest with
21 you, until we saw the magnitude and scope of
22 the proposals by the gaming companies, we had
23 absolutely no idea what kind of impact, if



1 any impact, was going to occur as a result of
2 riverboat gambling.

3 Until you see these plans laid out,
4 you had no idea impact was going to be. We
5 couldn't even guess it.

6 MR. VOWELS: From what I've heard,
7 there's only one satisfactory site in
8 Lawrenceburg. So it would seem to me if a
9 person was aware of the riverfront in
10 Dearborn County that bells and whistles would
11 go off that the public needed to be alerted
12 to all the other sites being a problem.

13 MR. CARROLL: We didn't have access
14 to any of those proposals prior to the
15 referendum process occurring. Those
16 proposals all came after that.

17 MR. VOWELS: Well, regardless of
18 whether there were proposals in existence or
19 not, it would seem to me with the riverboat
20 referendum coming up, a riverboat would be on
21 the river and dock next to the shoreline, and
22 the Lady Luck spot is the only one along the
23 entire shoreline, my point is is you should



1 have brought this up prior to the referendum
2 so the voters could have been more in tune to
3 the problems. Of course, the horse is out of
4 the barn.

5 MR. CARROLL: Well, I think it --

6 MR. VOWELS: There seems to be
7 something antidemocratic about what I'm
8 hearing.

9 MR. CARROLL: The issue at that point
10 would have been what -- you know, the
11 Dearborn County issue is more a moral issue.
12 The riverboat gambling itself, parking a
13 riverboat in the Ohio River is really not
14 problematic for us in and of itself if that's
15 all it entailed.

16 And if you look at some of the other
17 riverboat operations in Alton, Illinois,
18 that's about all it entails. You know, a
19 steel building to go in and pick up your
20 ticket and a riverboat. If that's all that
21 entailed, that would have been not a
22 significant problem for us. It's all this
23 land base development that causes the

1 concern.

2 MR. KLINEMAN: I thought it was the
3 traffic. I mean, people don't appear in
4 Alton without having driven there regardless
5 of what kind of building they go through.

6 MR. CARROLL: Well, you know, there
7 are a lot of issues that we did not know
8 about prior to the referendum, didn't
9 understand it, know about the environmental
10 impact.

11 As soon as we understood based on
12 what proposals were being offered, then we
13 became very active in letting our position be
14 known.

15 MS. BOCHNOWSKI: Any other questions?

16 Well, we thank you. You have not
17 made our job easier, but I wish you had. But
18 we appreciate your input. That's very
19 valuable.

20 And now it's time for us to take a
21 break, fifteen minute break. That puts us at
22 about five of, five of three.

23 (At this time, a break was taken.)

1 MS. BOCHNOWSKI: We'll get started
2 now. And first we're going to hear from the
3 Army Corps of Engineers. And we're got an
4 agenda here which everybody doesn't have in
5 front of them, so I guess we can do whatever
6 we want. But we'll go ahead and ask our
7 questions of you directly after your
8 presentation.

9 MR. CHRISTMAN: Okay. I appreciate
10 that.

11 MR. KLINEMAN: You can adjust that
12 lectern any way you want:

13 MR. CHRISTMAN: Okay. My name is
14 Bill Christman. I'm with the Corps of
15 Engineers.

16 As people who followed this process,
17 particularly in Evansville, are aware, the
18 Corps of Engineers developed a letter of
19 agreement with the Indiana Gaming Commission
20 in which we developed a procedure by which
21 the Indiana Gaming Commission would first
22 review the applicants within a given area and
23 make a preliminary selection or issue a

1 preliminary license to a chosen applicant or
2 applicants. And at that point, the Corps of
3 Engineers would take the applications from
4 those and process them.

5 In return, the Corps of Engineers
6 agreed early on in the process to talk to
7 each of those applicants and then to inform
8 the Gaming Commission as to what types of
9 problems we saw with individual applications,
10 and, in a sense, come to some conclusion
11 about not necessarily which ones could be
12 permitted or which ones couldn't, but to give
13 some kind of ranking as to how long we
14 thought different ones would take based on
15 what types of problems we could see coming
16 up. That's the process we're in right now.

17 First, I'd like to point out that
18 we're not really able to assess all
19 applications to the same degree of detail,
20 because of the nine applications that we have
21 seen, only three completely responded with
22 the information we needed in a manner timely
23 enough to allow us to fully review their



1 applications before this meeting.

2 Those three in alphabetical order are
3 the Boomtown Landing, Lady Luck and Pinnacle
4 Gaming. I have provided a handout to the
5 members of the commission listing each of the
6 nine that I'm referring to.

7 The degree of completeness of the
8 other six is indicated by the asterisks in
9 the application status column. The more
10 asterisks, the less complete the information
11 we were given. I point this out to assist
12 you in evaluating the estimates that we're
13 about to give you with regard to time.

14 In fairness, I should point out that
15 in the last week, three of the other six have
16 submitted additional information that they
17 feel completes their application. Those are
18 Ameristar, Boyd Gaming and Indiana Gaming. I
19 regret that those things came in so recently
20 and are so extensive that we haven't had time
21 to fully assess and see if they are complete
22 for our purposes.

23 The situation we're facing here is



1 clearly different from the only other one
2 that you've already handled in the Louisville
3 district, which is Evansville. In
4 Evansville, navigation was virtually the
5 overriding interest, navigation and enforced
6 public safety.

7 In this area of the river, we really
8 don't see that as a significant issue. As we
9 have heard already today, the two issues that
10 seem to be the most important here from our
11 point of view are the impacts to wetlands and
12 impacts to cultural resources, in particular,
13 archeological sites.

14 Developing mitigation plans for
15 either of these factors can be quite
16 time-consuming, and I know that's already
17 begun in many cases. But even a review can
18 be somewhat time-consuming.

19 That's especially true in the case of
20 cultural resources, where we view time spent
21 to stretch out for mitigation very often has
22 to be physically accomplished before work can
23 begin.



1 The handout we've given you is
2 essentially an evaluation matrix. You can
3 see we're not aware of the existence of
4 either of these two types of complications to
5 any significant degree -- that's wetland
6 impacts and cultural resource impacts -- in
7 the case of Lady Luck.

8 Three other applicants, Alpha Rising
9 Sun, Pinnacle Gaming and Rising Sun
10 Riverboat, are pretty close to that. There
11 may be some degree of complication there, but
12 not a significant amount.

13 In other words, while these issues
14 might be raised with any of those
15 applications, there's a fairly good chance a
16 cooperative applicant might clear those
17 particular problems with a minimal loss of
18 time.

19 I should point out that of the ones
20 named above, Pinnacle Gaming does have one
21 possible problem with a rather extensive bed
22 of aquatic vegetation at the proposed site.
23 It's not a wetland. But once we put out a



1 public notice, it could very well be classed
2 by some of the resource agencies as a special
3 aquatic site.

4 Our best guess is that the other five
5 applicants listed have a greater chance of
6 running into problems with one or both
7 factors, as indicated on the handout. I want
8 to stress again we're not saying that those
9 five stand any less chance of being permitted
10 in the end than the first four that I
11 mentioned. We're simply assessing potential
12 time frames based on the information
13 available as of this time.

14 I'm going to ask Doug Shelton, who
15 will be the only other presenter for us, for
16 a rough estimate of those time frames.

17 MR. SHELTON: I'm Doug Shelton. I'm
18 Chief of the North Section Regulatory Branch,
19 Louisville District.

20 About two years ago, people began
21 asking me how long will it take to process a
22 casino application. It seemed like a
23 reasonable question, and I thought I should



1 have a reasonable answer.

2 So I conducted a very informal study
3 and tried to anticipate sites that might be
4 potentially used for the casinos. I tried to
5 anticipate what resources might be at those
6 sites. And then I reviewed completed
7 actions, permit decisions that we had made
8 that had similar impacts to similar
9 resources.

10 And from that, it looked like the
11 cultural resource, indeed, did take a lot of
12 time to resolve the issues and make
13 decisions, and processing times could take as
14 long as a year to resolve the issues
15 associated with the cultural resources.
16 Wetlands, typically at this time we're taking
17 about eight to nine months to resolve issues
18 associated with wetlands.

19 Based upon that, I began answering
20 the question, it looks like it's going to
21 take six to twelve months to process casino
22 applications. I think that's still a
23 reasonable answer. I don't see any



1 significant changes in the processing
2 techniques or rules or procedures.

3 And so I would suggest that for some
4 of the applicants that you have information
5 and are considering at this time, for those
6 who have high potential for impacts to those
7 two resources, which, as Bill said, are
8 probably the two most controversial resources
9 that we have to analyze and make decisions
10 on, that those applications could take as
11 long as a year.

12 The other projects that have less
13 potential for impacts would have less
14 processing times. I believe that any
15 application that essentially has relatively
16 few impacts, potential impacts to any of the
17 resources within our review, because of the
18 public interest associated with the casino
19 applications, I think they'll take at least
20 six months.

21 So with that as a general guideline,
22 we would hope that would provide sufficient
23 information for the commissioners to make



1 assessments relative to the issues of
2 processing.

3 I think that concludes our
4 presentation. We'd be glad to answer any
5 questions that you may have.

6 MS. BOCHNOWSKI: Thank you very much.
7 Does anybody have any questions?

8 MR. THAR: Some of the applicants
9 indicated that they have temporary sites
10 aside from permanent sites. Does the data
11 that you presented us include temporary
12 sites?

13 MR. SHELTON: Yes, sir, it does.

14 MR. THAR: Do you see the Corps
15 giving a permit for a temporary site before
16 giving a permit for a permanent location?

17 MR. SHELTON: I don't think there's
18 any way that's going to happen. I think that
19 we have an obligation to process a single and
20 complete project. That project may have two
21 proposed sites, commonly referred to as a
22 temporary site and a permanent site.

23 But I think we need to subject the



1 applications to the proper procedures and
2 make decisions in regard to both sites at the
3 same time.

4 MR. THAR: It doesn't matter whether
5 the site is near the permanent site or
6 removed from the permanent site if you're
7 looking at both of them as one; is that
8 correct?

9 MR. SHELTON: We're looking at them
10 both as one application with two proposed
11 sites.

12 MR. THAR: Okay.

13 MR. SUNDWICK: You said that it could
14 be at the high point of this, for instance,
15 up to a year?

16 MR. SHELTON: Yes, sir.

17 MR. SUNDWICK: If they have high on
18 both wetlands and cultural, it wouldn't be
19 two years; it would just be a year.

20 MR. SHELTON: Right.

21 MR. SUNDWICK: All within the same
22 time.

23 MR. SHELTON: Yes, sir. We would try



1 to address both types of issues and any other
2 issues. We just concentrated on the two most
3 controversial types of resources. There may
4 be others involved.

5 But we would try to attempt to make
6 processing and decisions in regard to all
7 resources concurrently. Just whichever one
8 took the longest would be the critical path.

9 MR. SUNDWICK: From the time they
10 complete their application, it could take up
11 to a year to get approval.

12 MR. SHELTON: Yes, sir, correct.

13 MR. SUNDWICK: Is there any one of
14 these applicants that you look through this
15 as far as wetlands and you're familiar with
16 the site that almost looks like it would be
17 in an area that would never be approved? I'm
18 looking for an opinion; I'm not looking for
19 fact.

20 MR. SHELTON: Yeah, I understand. I
21 hope I can dodge the spot if I can. We're
22 not in a position at this time to make those
23 determinations. We have attempted to assist



1 the applicants to get their applications
2 complete.

3 I guess it's worthwhile to note that
4 we do deny permits on occasion. There have
5 been occasions because of environmental
6 impacts to wetlands that we, indeed, have
7 denied permits.

8 MR. SUNDWICK: Let me ask you a
9 question.

10 MR. SHELTON: Sure.

11 MR. SUNDWICK: If these applicants
12 visited with you personally, I mean, they --
13 you would give them some indication of this
14 is going to take approximately a year, and my
15 gut feeling is is that you're going to have a
16 problem.

17 Did they do that individually with
18 you?

19 MR. SHELTON: Yes, sir, they did.
20 And we did -- I did provide them with that
21 type of information.

22 MR. SUNDWICK: Most of them sit up
23 here and figure this is a walk in the park.



1 I mean, You don't think so.

2 MR. SHELTON: That's not my
3 assessment of the situation, no, sir.

4 MR. SUNDWICK: But you won't give me
5 the names of the ones.

6 MR. SHELTON: We're looking at
7 devoting a lot of the federal government's
8 resources in processing these applications.
9 There are very serious issues that need to be
10 addressed before decisions need to be made.
11 And it just takes these types of processes.

12 When I compare them to projects that
13 we've already completed, similar types of
14 impacts, it looks like it takes this long to
15 process these applications.

16 MR. SUNDWICK: And you can't even
17 guarantee at the end they're going to pass
18 muster anyway.

19 MR. SHELTON: No, sir. I never
20 guarantee anything. I don't mean that to be
21 humorous. I'm very serious.

22 MR. SUNDWICK: I agree.

23 MR. KLINEMAN: Well, I sent you some



1 money on April 15th. What did you do with
2 that?

3 MR. SHELTON: I'm sorry?

4 MR. KLINEMAN: I sent you some money
5 on April 15th. What did you do with it?

6 MR. SHELTON: I didn't receive it,
7 sir. Possibly you need to resubmit that.

8 MR. THAR: Let me run through some of
9 this, if I may.

10 MR. SHELTON: Yes, sir.

11 MR. THAR: When an applicant has, for
12 instance, a low low assessment --

13 MR. SHELTON: Right.

14 MR. THAR: -- what's your anticipated
15 time frame for resolution of those issues?

16 MR. SHELTON: We're getting to the
17 lower end, Mr. Thar, of that range, that six
18 to twelve month range.

19 MR. THAR: So you're talking around
20 six?

21 MR. SHELTON: I don't know that I
22 could really qualify it much better than
23 that.



1 MR. THAR: That's what I didn't catch
2 before. If somebody has a low high, you're
3 in the middle range?

4 MR. SHELTON: Yes, sir.

5 MR. THAR: So high high, you're at
6 the --

7 MR. SHELTON: You're at the top,
8 right.

9 MR. THAR: Some applicants have --
10 well, one city has represented that they had
11 been applying for potentially a temporary
12 spot in the city's name rather than the boat
13 company's name.

14 Will that get -- is that going to
15 expedite things for a temporary boat in that
16 location?

17 MR. SHELTON: I'm sorry. You better
18 ask me that question again. I'm not really
19 sure I understand.

20 MR. THAR: The City of Lawrenceburg
21 has represented that there has been an
22 application in that city's name for
23 potentially a temporary operation in the City



1 of Lawrenceburg's name.

2 Have you received that application?

3 MR. SHELTON: Mr. Thar, there's a
4 little confusion here. Part of it may lay
5 with me. But it's my opinion that in
6 accordance with the letter of agreement
7 between our two agencies that I could not
8 process an application for any potential
9 casino applicant until you, this body, issues
10 a license.

11 I'm not aware that the City is
12 pursing a license to operate a temporary or a
13 permanent site. So I don't think I could
14 process that application.

15 MR. THAR: Another riverboat company,
16 Boomtown, has represented that they have a
17 temporary site that could be operational in
18 ninety to a hundred and twenty days.

19 Would you disagree with that
20 assessment?

21 MR. SHELTON: I'm aware of what's
22 been proposed at that site. Unfortunately,
23 I'm not that well acquainted with



1 construction times and constraints. And I
2 suggest maybe it would vary with the time of
3 the year that the construction took place.

4 The Ohio River may have a lot to say
5 about who constructed what, when and where.
6 So I'm not well enough informed to address
7 that. I'm sorry.

8 MS. BOCHNOWSKI: Anybody else?

9 MR. KLINEMAN: Could you tell me when
10 you decide that something has a low or a high
11 cultural resource problem, is that by
12 trenching the area and seeing what's there,
13 or is it just by some sort of a map that this
14 is probably an area that has cultural
15 resources?

16 MR. SHELTON: The assessment that I
17 described earlier on that I conducted was
18 based primarily upon what I would call a
19 literature search, basically just the maps of
20 the known resources within the area.

21 The type of investigation that you're
22 beginning to describe with the trenching
23 would be different variables of constants



1 that we might require the applicants to
2 conduct so that we properly identify what
3 resource is there and how important or
4 significant it is.

5 We're not to that level yet. To me,
6 that's processing an application. And we
7 agreed not to do that. So my assessment was
8 based upon what as I refer to as a literature
9 search.

10 MR. KLINEMAN: We have had some
11 applicants who say we trenched and we've done
12 this and hired experts to do this stuff, and
13 that they basically completed their work.

14 Would you then at the time that you
15 were starting to process this application
16 pursuant to our agreement, would you then
17 accept the work that had heretofor been done,
18 or would you say, you know, go get somebody
19 else to do it again or something?

20 I mean, Do you accept the material
21 that they have done beforehand?

22 MR. SHELTON: At this time, it's hard
23 to make that kind of determination. We are



1 aware that that testing has gone on. It's my
2 belief that that testing was coordinated with
3 the SHPO, the State Historic Preservation
4 Office.

5 There are certain state laws that
6 need to be addressed for that type of
7 subterranean testing. And so they, the
8 potential applicants, have coordinated with
9 SHPO. In lots of instances, SHPO and the
10 Corps agree. There are occasions when we
11 don't agree.

12 So we could have to make those
13 decisions after we begin processing to see
14 what level of testing had been completed,
15 where the testing had taken place and what
16 the results were.

17 Again, that's the things that we
18 would get into as we begin to process the
19 application.

20 MR. KLINEMAN: So something that's
21 marked high could, if you then saw that some
22 work had been done which was acceptable to
23 the State and looked okay to you, that



1 somebody in a high category might drop down
2 to low.

3 MR. SHELTON: Exactly, right. Again,
4 I don't guarantee anything. This was a quick
5 assessment based upon some assumptions that I
6 had to make. And you're very correct.

7 Likewise, the opposite might happen.
8 Someone that we have based upon our
9 literature search we think is low may pop up.
10 We'll determine those things as we begin
11 processing. But, yes, sir, that's a good
12 point.

13 MR. SUNDWICK: Going back to Mr.
14 Thar's question a little bit, I think he
15 asked the question if they say they can be
16 ready in ninety days to build, if, in fact,
17 they were capable of building the site
18 within ninety or a hundred and twenty days,
19 you're telling us there's no way that even if
20 they could build the site that they could do
21 anything with it.

22 MR. SHELTON: What I'm about to say,
23 I guess, may -- let me see if I can find a



1 different way to say it, because I don't want
2 to say what I was getting ready to say.

3 It's my opinion they can't build
4 anything without a permit that's related to a
5 casino, directly related to a casino. If
6 it's related to some other function, and then
7 could possibly be later at some other point
8 be utilized by a casino applicant, if we
9 permitted that, we authorized it, then they
10 can use that facility.

11 But we know what the proposals are.
12 We reviewed them. And I think we can very
13 quickly decide what is a casino project and
14 what is not. And I don't think the
15 applicants would contest that. I think it's
16 very easy to determine construction related
17 to a casino. And we would probably get that
18 stopped very quickly if we had not issued a
19 permit.

20 I don't -- did I explain that very
21 well?

22 MR. SUNDWICK: I think you did. I
23 guess my question is is even if they could



1 build it, you couldn't get them a -- if they
2 could build a project you approved in a
3 hundred and twenty days, you couldn't get an
4 approval for six months to a year anyhow.

5 MR. SHELTON: If I understand, yes, I
6 think that's right.

7 MR. SUNDWICK: Thank you.

8 MR. THAR: One last thing. The data
9 presentation sheet, is that a confidential or
10 a public?

11 MR. SHELTON: No. It's public. It's
12 public information.

13 MR. THAR: I might warn you to sit
14 here when you finish, because you might get
15 trampled.

16 MR. SHELTON: I'm used to that.

17 MR. SUNDWICK: Or leave now.

18 MR. SHELTON: Is there a back door?

19 MS. BOCHNOWSKI: Yes, there is.

20 MR. KLINEMAN: Are you in a position
21 to tell us anything about Evansville?

22 MR. SHELTON: The Aztar application
23 we're processing? Yes, sir, I can relay the



1 official status. We're very near completion
2 of that process, and we would hope to have a
3 decision relatively soon, possibly as soon as
4 thirty days.

5 MR. KLINEMAN: It's looking real
6 good.

7 MR. SHELTON: It looks like the end,
8 yes, sir.

9 MR. SUNDWICK: On your list, if
10 you're going to categorize Evansville on this
11 list, it must have been low low. I'm not
12 being facetious at all.

13 MR. SHELTON: No, sir; that's a good
14 question. We would have to create a new
15 category for the Evansville area, and that
16 would be navigational concerns.

17 MS. BOCHNOWSKI: And that would be
18 high.

19 MR. SHELTON: That would be high,
20 yes, ma'am.

21 MR. SUNDWICK: Relatively quick.

22 MR. SHELTON: I'm sorry?

23 MR. SUNDWICK: You know, if you



1 resolve this in thirty days, that's
2 relatively quick.

3 MR. SHELTON: Well, of course, we
4 started processing that application for Aztar
5 I believe the first part of March. So we're,
6 what, three or four months into that process.

7 MS. BOCHNOWSKI: Anybody else?

8 Okay. I guess that's it. Thank you
9 very much. You have really been quite
10 informative. I think they have.

11 Okay. We're all set.

12 MR. SCHERMERHORN: Thank you, Mrs.
13 Chairman, and members of the Indiana Gaming
14 Commission. I am Phil Schermerhorn,
15 Executive Assistant to Stan Smith,
16 Commissioner of the Indiana Department of
17 Transportation. Mr. Smith is in Boston today
18 on business and asked me to deliver INDOT's
19 presentation to the Commission.

20 Joining me are Dennis Faulkenberg at
21 the table, and Dennis is INDOT's Chief
22 Financial Officer. And two people in the
23 front row of the auditorium are Don Lucas,



1 INDOT's Chief Engineer, and Walt Land, who is
2 the Project Manager for the U.S. 50 project
3 in the Lawrenceburg area.

4 Mr. Faulkenberg will make a few
5 comments after me. Specifically he will note
6 how much money INDOT has to spend during the
7 next several years for highway work. While
8 Mr. Lucas will not make a presentation, he
9 can answer any construction questions which
10 commission members may have. And I believe
11 between the three or four of us, we can
12 answer any questions you may have.

13 INDOT selects, develops, builds,
14 maintains transportation projects which
15 provide mobility, stimulate economic growth
16 and improve the quality of life for Indiana
17 residents.

18 While INDOT encompasses all
19 transportation modes, highway, aviation,
20 public transit, railroads, my focus, at your
21 request, is highways and highway projects
22 INDOT has scheduled for the next several
23 years in Dearborn, Ohio, Switzerland and



1 Jefferson Counties.

2 In general, INDOT's schedule shows
3 more than forty million dollars worth of work
4 in this four-county area for the 1995
5 construction season, the construction season
6 we are in now, through 1997's construction
7 season.

8 INDOT has provided you with a list of
9 these projects which appears in the material
10 I just gave you. It is important that you
11 understand that this listing represents a
12 tentative schedule. It can and often does
13 change.

14 At this point in my remarks, I will
15 address certain projects in each county,
16 beginning with Dearborn County and moving
17 downstream to Jefferson County.

18 The most noteworthy project is the
19 added travel lane project on U.S. 50. INDOT
20 has provided you a brochure on this project.
21 And for your benefit, that is in this area
22 between Aurora and the Greendale interchange
23 with 275. Again, it's one that starts at



1 George Street in Aurora and ends at the U.S.
2 50-Interstate Route 275 interchange in
3 Greendale.

4 In particular, INDOT will build a
5 continuous left-turn lane complementing the
6 existing four-lane roadway for most of the
7 project's length. The exceptions include the
8 bridge over Tanners Creek, the area around
9 the floodgate near Tanners Creek and the
10 portion of the highway on top of the levy
11 east of downtown Lawrenceburg.

12 This project appears on INDOT's July
13 11 bid opening. And provided the department
14 receives an acceptable bid below the
15 engineers' estimate, it will award a contract
16 several days later. Hopefully, this two-year
17 construction project will begin on or around
18 August 1, 1995, and end on or around
19 September 1 of 1996.

20 INDOT developed this project in
21 response to safety concerns. INDOT will pay
22 the project's construction costs, an
23 estimated six and a half million dollars,



1 using state highway money which is primarily
2 derived from the state fuel tax revenue.

3 U.S. 50 between Lawrenceburg and
4 Aurora carries an average daily traffic of
5 twenty-three thousand four hundred vehicles
6 in a twenty-four hour period. And that is
7 according to our 1991 traffic counts.

8 This high traffic volume, combined
9 with a lack of a dedicated left-turn lane,
10 contributes to a high accident rate.

11 According to the statistics prepared by the
12 Dearborn County Chamber of Commerce, three
13 hundred and forty-six accidents occurred in
14 1994 on this stretch of U.S. 50, including
15 one hundred and forty-three personal injury
16 accidents. Also, local officials have told
17 INDOT a rear-end accident occurs every
18 twenty-four hours on U.S. 50.

19 Lawrenceburg, Greendale and Dearborn
20 County have taken the first steps to build a
21 local bypass project, which is this green
22 line right here. There is also a map in your
23 brochure. What appears on this diagram is



1 exaggerated. It's for the visual.

2 Because it's a local project,
3 Lawrenceburg has the most active information
4 about this project. However, I believe a
5 bypass will connect U.S. 50 immediately west
6 of Lawrenceburg's downtown business direct to
7 State Road 1 immediately north of
8 Lawrenceburg's downtown business direct.

9 This project envisions using a small
10 segment of State Road 48, which parallels
11 Tanners Creek. It then follows a local road
12 which also parallels Tanners Creek after
13 State Road 48 turns left.

14 A new bridge would span Tanners Creek
15 with an approach connecting the bridge to a
16 local street on the opposite bank. This
17 local street would then intersect with State
18 Road 1 to form the bypass.

19 I understand that the towns and the
20 county have a contract with Sieco, a
21 Columbus, Indiana, consulting firm, to study
22 this proposed bypass. This project carries
23 an estimated ten million dollar price tag,



1 with construction tentatively scheduled for
2 the year 2000, according to Sieco.

3 Also, INDOT plans to correct a slide
4 area on State Road 56 about two and a half
5 miles south of U.S. 50 running for about a
6 thousand feet. And that is the orange dot or
7 the red dot in this area.

8 The schedule shows a November, 1995,
9 ready for letting date, which means this
10 three point two million dollar project will
11 likely occur during the 1996 construction
12 season.

13 Moving on to Ohio County, major
14 improvements to State Road 56 from Rising Sun
15 to the Dearborn County line do not appear in
16 INDOT's schedule. Major improvements include
17 such activities as building a roadway,
18 rebuilding an existing roadway or adding a
19 travel lane such as in the case of U.S. 50 in
20 Dearborn County.

21 However, the schedule shows
22 maintenance activities which can best be
23 described as safety improvements, shoulder



1 stabilization and guardrail selection.

2 INDOT let a contract in May to
3 resurface State Road 56, State Road 156 on
4 the west side of Rising Sun to Patriot at a
5 cost of five hundred and eighty-six thousand
6 dollars. And that project is between these
7 two points in red.

8 Lastly, INDOT is rebuilding about a
9 mile and a half section of State Road 56
10 beginning at its intersection with State Road
11 156 at a cost of three and a half million
12 dollars, which is this area right here, this
13 blue.

14 In Switzerland County, INDOT has no
15 major road projects scheduled through 1997's
16 construction season in this county. However,
17 the commission's executive director asked
18 INDOT to address the roadway issue involving
19 State Road 101, the Markland Dam in the state
20 of Kentucky.

21 INDOT has no plans today to extend
22 101, which would be a new road, northward
23 from Markland Dam to a point near East



1 Enterprise at the junction of State Road 56
2 and 250. This is the Markland Dam here. And
3 East Enterprise is this dot on the map, in
4 this vicinity. And the proposal at one time
5 was to extend 101 from the Markland Dam up to
6 East Enterprise.

7 INDOT based its decision not to
8 proceed with this project for two reasons.
9 First, it believes the economic benefit or
10 return derived from this project is less than
11 the cost to build it.

12 Simply put, this project, with an
13 estimated cost of about forty million
14 dollars, returns less than a dollar for every
15 dollar spent to build it. Economics today or
16 in the foreseeable future do not warrant this
17 expenditure.

18 Second, while the Kentucky
19 Transportation Cabinet plans to widen
20 Kentucky State Road 184 between U.S. 42 and
21 Interstate Route 71, it will not do so at the
22 earliest until the year 2002 and beyond,
23 according to the senior manager within the



1 Kentucky Transportation Cabinet.

2 And that roadway began at the
3 Markland Dam. And we have just drawn in,
4 it's a green line from the Markland Dam down
5 to Interstate 71 that connects Cincinnati and
6 Louisville.

7 As an alternative to building a new
8 State Road 101, INDOT plans to improve State
9 Road 129 from about Moorefield to its
10 junction with State Road 56 west of Vevay,
11 which is this green line here.

12 The project consists of correcting
13 horizontal and vertical curves, widening the
14 travel lanes and, in general, making a safer
15 two-lane facility.

16 INDOT has just begun developing this
17 project. And given INDOT's typical highway
18 development process, it will take about four
19 years to bring this project to letting. I
20 have no estimated cost for this project other
21 than to say it will likely cost several
22 million dollars.

23 Jefferson County, INDOT has no major



1 roadway projects scheduled through the 1997
2 construction season in this county also. The
3 Kentucky Transportation Cabinet is actively
4 pursuing replacing the Madison,
5 Indiana-Milton, Kentucky bridge.

6 It has narrowed the alignment
7 location for this new structure to three
8 sites, and its project consultant is
9 conducting further analysis to determine the
10 preferred alignment or location for this
11 bridge. Realistically, Kentucky will build
12 this multimillion dollars structure some time
13 in the first decade of the next century.

14 Building and maintaining highways is
15 an expensive proposition. Indiana will
16 always have more infrastructure needs than
17 money to pay for these needs. And Mr.
18 Faulkenberg will discuss some financial
19 issues here shortly.

20 Further, INDOT holds generators
21 responsible for highway improvements that
22 they create the need for. As an example,
23 when a developer builds a shopping center



1 with an entrance on to a state or federal
2 highway, the developer bears the cost of
3 additional travel lanes, right or left-turn
4 lanes or traffic signals to facilitate safe,
5 efficient traffic movement in front of and in
6 and out of the shopping center. This should
7 not be a taxpayers' burden.

8 INDOT will inspect and look to other
9 sources to pay for improvements to highway,
10 the highway system, that these facilities
11 generate. The license recipient or
12 recipients can expect cooperation from INDOT.
13 However, INDOT cannot, with the financial
14 resources available to it, pay for all the
15 state's infrastructure needs.

16 And Dennis Faulkenberg now will
17 address you for a few minutes.

18 MR. FAULKENBERG: Thank you, Phil.
19 Members of the Commission, my name is Dennis
20 Faulkenberg, and I'm the Chief Financial
21 Officer for the Indiana Department of
22 Transportation. I want to give you a little
23 bit of specific information about the fiscal



1 resources available to the Department of
2 Transportation for our road building budget.

3 In 1994 and 1995, we have been at
4 record high year numbers for capital
5 construction in the state of Indiana for
6 highways. During those years, in 1994, INDOT
7 bid construction contracts of over four
8 hundred and sixty-three million dollars, its
9 highest year ever. And in 1995, the current
10 year, we're looking at about four hundred and
11 seventy-eight million dollars for road
12 construction.

13 But that's about where the good news
14 ends. We have been able to maintain such a
15 high level of capital construction because of
16 transfers we've made from operating budgets
17 into our capital budgets over the last two
18 years.

19 In fact, during the last two years,
20 we have moved from sixty to seventy million
21 dollars from operating into to capital
22 budgets to augment those capital budgets to
23 those levels. However, future transfers of



1 this magnitude are just not available in
2 future years.

3 So in 1996 and '97, the upcoming
4 biennium, the capital construction numbers go
5 down significantly. These lower levels for
6 construction result from basically our main
7 source of revenue, the gas tax, diesel tax,
8 are fairly no growth revenue sources.

9 Even though vehicle traffic is
10 increasing in the state of Indiana, as it is
11 nationally, fuel efficiencies for the fleets
12 in the state and in the nation pretty well
13 keep up with those increases in mileage. And
14 so there's no net gain in revenue to the
15 highway fund.

16 So with basically the same amount of
17 revenue in each of the future years, even
18 with minimal inflationary increases in our
19 operating budget for employee salaries,
20 utilities, road maintenance, supplies and so
21 forth, that reduces the remaining amount that
22 is available then for capital road
23 construction.



1 So in the coming biennium, '96 and
2 '97, we're going to be looking at a decrease
3 in the capital dollars for construction. In
4 1996, the coming year, we're going to be
5 looking at about a four hundred and nineteen
6 million dollar program. That's about fifty
7 million dollars -- more than fifty million
8 dollars less than the current year. Still a
9 respectable amount, historically that's very
10 much par with where we had been in recent
11 years. But it's a big drop from where we
12 were in the last two years.

13 And then next year, fiscal '97, we
14 would be at about the four hundred million
15 level. So with inflation and construction
16 costs and mounting road needs that we have in
17 our plan, that's not real good news for new
18 construction.

19 Basically it takes about three
20 hundred and fifty million dollars of that
21 capital program just to preserve and maintain
22 the system as is, no improvements to the
23 system.



1 So in coming years beyond '96 and
2 '97, that capital program will be reduced
3 each year down to just about the level where
4 we're expecting in the out years, in the
5 later years of this century, to be able to
6 just maintain and keep the existing system in
7 the shape that it's in.

8 From a federal front, we get -- in
9 Indiana, state and local governments get
10 about twenty-five to thirty percent of our
11 money for roadways from the federal
12 government, federal transportation funds.

13 I think everybody knows what's
14 happening on the federal front. I don't see
15 any new money coming from there. In fact, I
16 see some decreases and possibly some
17 significant decreases in federal
18 transportation funding.

19 Those decreases could begin as early
20 as October of this year and could quite
21 likely be very significantly decreased in the
22 out years of the Congress' seven year plan to
23 balance the federal budget.



1 With some of the projections that I'm
2 seeing, I'm seeing some significant
3 reductions in transportation funds in those
4 years. So any reductions at the federal
5 level would just further decrease the numbers
6 that I'm talking about here today.

7 So with that, I'll close. And if you
8 have questions for Phil or I or our
9 engineers, we'd be glad to answer them.

10 MS. BOCHNOWSKI: I think we'll go
11 ahead and ask questions of these people
12 before we move on. So does anybody have any
13 questions?

14 MR. KLINEMAN: Just about the U.S. 50
15 project, there was some indication that
16 somebody said it's going to be let next
17 month?

18 MR. FAULKENBERG: Yes.

19 MR. KLINEMAN: And it would be
20 completed by the end of the year? And you
21 told us September of '96.

22 MR. SCHERMERHORN: No. It's a
23 two-year project let this year, and completed



1 around September 1 of 1996. Hopefully sooner
2 if we get done, but that's the target date.

3 MR. KLINEMAN: And that's all
4 dependent upon the bids coming in below the
5 engineers' estimate; is that right?

6 MR. SCHERMERHORN: That is the
7 important factor. There's also some other
8 factors we have to check for, such as DBE
9 requirements.

10 MR. KLINEMAN: What?

11 MR. SCHERMERHORN: DBE, Disadvantaged
12 Business Enterprise requirements.

13 MR. KLINEMAN: The dot that you're
14 going fix a slide in the road on 56. And how
15 much did you say that was going to cost?

16 MR. SCHERMERHORN: I will find that.
17 It sticks in my mind it's several million
18 dollars.

19 MR. KLINEMAN: Yes. I put down three
20 point two million dollars.

21 MR. SCHERMERHORN: That's correct.
22 It's amazing how expensive highway work is,
23 and people don't realize how expensive it is.

1 MR. KLINEMAN: You don't even know
2 how large an area that is?

3 MR. SCHERMERHORN: It's about a
4 thousand feet, according to the information
5 that I have.

6 MR. KLINEMAN: And right now, it's
7 being operated on some kind of temporary
8 basis; is that it?

9 MR. SCHERMERHORN: I'm not sure.
10 Don?

11 MR. LUCAS: My name is Don Lucas.
12 I'm the Chief Highway Engineer for the
13 Department of Transportation.

14 And what we do right now, as an
15 active slide, an earth slide that drops down
16 some, we just bring in some asphalt and fill
17 the hole up. But it continues to accelerate.
18 And as the river goes up and down, why, it
19 causes water to get in. So it needs to be
20 fixed.

21 MR. KLINEMAN: The last question I
22 have then is on 56, that same area, 56 north
23 of Rising Sun towards 50. We have an



1 applicant in Rising Sun, two applicants
2 rather in Rising Sun. They are talking about
3 widening the road by three feet on each lane
4 and then putting six foot shoulders on each
5 side. And they're talking about doing that
6 through funding other than state money.

7 But, of course, it would be under
8 your state jurisdiction, and you would have
9 to approve anything that's done on the plans
10 and so forth.

11 Had you heard anything about that at
12 all?

13 MR. LUCAS: I haven't seen any
14 application to that effect.

15 MR. KLINEMAN: I don't think it's an
16 application. Has anyone talked to you about
17 it?

18 MR. LUCAS: No, they have not.

19 MR. KLINEMAN: They said this morning
20 they thought there was a fifty foot right of
21 way, so they would be able to do this without
22 acquiring much ground.

23 MR. LUCAS: I can't address right of

1 way. But did you say three million dollars?

2 MR. KLINEMAN: No. They were talking
3 about --

4 MR. THAR: Three hundred thousand per
5 mile.

6 MR. KLINEMAN: Three hundred thousand
7 per mile, and there's seven miles.

8 MR. RANSBURG: Two point one million,
9 I think.

10 MR. KLINEMAN: Did you understand?
11 They said they were going to widen each lane.

12 MR. LUCAS: Yeah, I heard what you
13 said.

14 MR. KLINEMAN: And then put six foot
15 shoulders on.

16 MR. LUCAS: That's a very -- it's a
17 long -- it's not a very straight road. It's
18 along the river, and it's a slide-prone area.
19 And if you widen toward the river, depending
20 on where you are, you can create a problem.

21 And so you can see that we have a
22 slide that goes down into the river itself.
23 There's a plain, a circular plain for a slide



1 that actually goes down into the river water.
2 And so they're not cheap to repair.

3 So if somebody wants to do that,
4 we're going to need some soils information,
5 some boring information that would indicate
6 what the conditions are, especially where
7 they're widening toward the river.

8 Our experience in the area is you
9 have to excavate. And it's a hilly area,
10 which the hills are pretty close to the road
11 in several places. And if you excavate into
12 those, there's real hard limestone and real
13 soft shale imbedded in alternate layers. And
14 it's prone to sliding. It's prone to
15 sliding. I would question the cost,
16 seriously question the cost.

17 MR. THAR: Part of the proposals by
18 some of the applicants to help alleviate the
19 traffic problems in Lawrenceburg with U.S. 50
20 is just to add a dual turn lane off of 275 to
21 back around U.S. 50.

22 Has that been discussed with INDOT
23 or is that part of INDOT's proposal with

1 regard to the improvement of U.S. 50?

2 MR. LUCAS: I think Phil talked
3 about -- Mr. Schermerhorn talked about
4 improving the existing U.S. 50 from Aurora up
5 to 275. And basically we're taking a
6 four-lane section and adding a center turn
7 lane so you can turn left, either eastbound
8 or westbound.

9 MR. THAR: Right. My question is,
10 some of the applicants have discussed to
11 further alleviate traffic problems on the 275
12 connector that runs from 275 to that
13 intersection, that as you come across from
14 275 to the intersection of 51, that there
15 would be a dual left-hand turn lane so you
16 can turn left towards Lawrenceburg on 50.

17 My question is, first, has anybody
18 proposed those plans to you, or, secondly, is
19 that part of the U.S. 50 improvement, because
20 I didn't see it?

21 MR. LUCAS: Walt, do you know
22 whether -- there is a dual left turn planned
23 there already, isn't there?



1 MR. LAND: Yes.

2 MR. LUCAS: I think we already have a
3 dual left turn planned there in our safety
4 improvement project.

5 MR. THAR: Off of 275?

6 MR. LUCAS: Off of 275 on to
7 westbound 50.

8 MR. THAR: That will be part of this
9 project?

10 MR. LUCAS: I believe that's correct.
11 I believe that to be correct.

12 MR. THAR: Then there would be one
13 straight or right-hand turn lane? There
14 would be three lanes on the 275 connector
15 as you approach that?

16 MR. LUCAS: I need to address -- I
17 need to go back and look at the plan. I
18 don't have all the intersections in my head.

19 MR. THAR: Okay. Between now and
20 next Friday, can I get that?

21 MR. LUCAS: Absolutely. We'll give
22 you a plan.

23 MS. BOCHNOWSKI: Anything else?



1 Okay. Thank you so much.

2 MR. SCHERMERHORN: Thank you.

3 MS. BOCHNOWSKI: I understand we're
4 going to hear from the Department of Natural
5 Resource also today. Okay. Great.

6 MR. SIMPSON: Thank you, Madam Chair,
7 Members of the Commission. I'm John Simpson.
8 I'm the Director of the Division of Water
9 from the Indiana Department of Natural
10 Resources. I have with me my Assistant
11 Director, Mike Neyer, who is in charge of the
12 regulation branch for the division, and also
13 Dan Fogerty, Director of the Division of
14 Historic Preservation. And Mike will be
15 making a few comments in addition to mine.

16 MS. BOCHNOWSKI: That would be great.

17 MR. SIMPSON: And Dan and Mike will
18 both be available to answer any questions.

19 Let me just overview for you just
20 briefly the Natural Resources Commission and
21 the Department of Natural Resources. The
22 Natural Resources Commission is a
23 policy-making body for the department dealing



1 with policy Approving or dealing with
2 objections, various things that come before
3 the department. And so they overview, and
4 they are a policy-making body.

5 The Department of Natural Resources,
6 of course, we administer the laws, and we
7 answer to the Commission. And on a
8 day-to-day basis, we administer laws that the
9 legislature has given to us to administer.
10 So that's a brief overview of the commission
11 and the department.

12 Specifically, two laws that we
13 administer that are applicable to this issue
14 before you today is the 1945 Flood Control
15 Act as one law, and the other is the Waterway
16 Act.

17 And just briefly going over the 1945
18 Flood Control Act, that particular act gives
19 us three things that we need to look at. It
20 says that any construction within a floodway
21 of a stream requires a permit from the
22 Department of Natural Resources.

23 And the three things that we're



1 supposed to look at are does the project
2 adversely affect or unduly restrict the
3 capacity of the channel over bank to carry
4 flood water. Regulatory flood, and that's
5 been defined by the rules of the hundred year
6 flood.

7 The second is we are to look at the
8 matter from the safety of life and property,
9 hazards of life and property. And then a
10 third thing we look at is whether it's
11 unreasonable, detrimental to fish and
12 wildlife and botanical resources.

13 The impact on the floodway
14 efficiency, of course, we assess the
15 hydrology fact of the hundred year flood on a
16 construction project within the floodway. A
17 project could be fill, excavation, a levy,
18 bridge, a building. Any construction within
19 the floodway is what we look at.

20 And we look to see whether that
21 particular project will raise the stages of
22 the hundred year flood unreasonably. The
23 Commission has defined unreasonably as more



1 than fifteen hundredths of a foot. On the
2 Ohio River, that takes some major fill to
3 raise the stages that much.

4 The other thing is the threat to
5 safety of life and property, the impact of a
6 levy or a dam as far as possible safety, also
7 induced flood damage off-site if a levy or a
8 dam impound water that would affect somebody,
9 of course, the potential for loss of life.

10 Detrimental impacts on fish and
11 wildlife and botanical resources, we're
12 dealing with the breeding and spawning
13 habitat, endangered species, wetlands, forest
14 land, natural areas and native preserves,
15 recreational impacts, erosion, sediment
16 control and that type of thing.

17 But let me make it clear that this
18 act only gives us jurisdiction on the
19 floodway. I mean, a lot of folks -- there's
20 a floodway and then there's what we call the
21 flood fringe area, areas that are subject to
22 flooding, but they aren't essential to carry
23 flood water. I mean, water will back into



1 the flood fringes.

2 The total area is called the flood
3 plain. This is kind of confusing. But the
4 total area is referred to as the flood plain,
5 which is broken up into two components, the
6 flood fringe and the floodway.

7 But we don't have under the law
8 jurisdiction over anything outside the
9 floodway. So it has to be defined
10 specifically within the floodway of the
11 stream. So some folks think we probably
12 ought to have more jurisdiction than what the
13 law gives us, but we don't.

14 Now, the Waterway Act, that provides
15 we need to look at the impact of
16 navigability, of boating safety, significant
17 harm also to the environment and natural or
18 cultural or archeological resources and again
19 also hazard to life and property.

20 The Flood Control Act specifies
21 that -- specifically says that there are to
22 be no boats or residences in a floodway of a
23 stream. Therefore, it's prohibited,



1 according to law, to have a boat or a
2 residence in a floodway.

3 It's my understanding that there are
4 some applicants that are proposing to
5 construct hotels within the floodway. And
6 I'm advised through the Chairman of the
7 Natural Resources Commission for the
8 department that if the Gaming Commission does
9 award a certificate of suitability to an
10 applicant who proposes to construct hotels in
11 a floodway, that applicant should through the
12 department go before the Natural Resources
13 Commission.

14 And as I understand it, they are at
15 least willing to listen to the potential
16 of -- the Flood Control Act does provide that
17 the Commission can establish what is referred
18 to as a commission floodway.

19 So the Commission is willing to
20 entertain that. They are willing to address
21 that issue. But if there is one of the
22 applicants or more than one applicant that
23 has that situation, then they will need to go



1 before the Natural Resources Commission for a
2 determination.

3 I think that's all of my comments for
4 the moment, and I'm going to turn it over to
5 Mike Neyer for further comments. And then
6 we're available to answer questions.

7 MR. NEYER: Thank you. I am Mike
8 Neyer, Assistant Director of the Division of
9 Water. And I run the permitting program
10 dealing with the Flood Control Act and
11 Navigable Waters Act. What I'd like to do
12 briefly is outline to you the applications
13 that we do have in in the three-county area.

14 About a year ago, there was a
15 regulatory seminar for the gaming interests
16 presented here in the auditorium. And at
17 that seminar, both the Corps and DNR and IDEM
18 and the other entities there encouraged the
19 applicants to meet with us ahead of time to
20 discuss their applications and potential
21 problems.

22 As a result of that, we have met with
23 several gaming applicants at their request.



1 Several decided not to opt for that
2 discussion. We have had applications coming
3 in since about July of last year, some as
4 recently as last week.

5 In the Dearborn County area, we have
6 received applications from Lady Luck,
7 Boomtown, Indiana Gaming, Boyd, Empire and
8 Ameristar. In Switzerland County, we have
9 received an application from Pinnacle. And
10 we have no application on file for Rising Sun
11 or Ohio County.

12 Many of these applications are in
13 various stages of review. Some were
14 complete, and some are not complete. The
15 review time that we are targeting once the
16 certificate is issued by the Gaming
17 Commission is ninety days once the applicant,
18 successful applicant, gives us a complete
19 application package. And that is assuming
20 that there is not a request for a public
21 hearing, because we do have timing to
22 schedule that hearing.

23 Many of the issues that we will be



1 looking at are the same issues as the Corps
2 of Engineers for various sites. One
3 additionally that I don't believe the Corps
4 mentioned is we will be looking at for those
5 applicants who are in the vicinity of the
6 Lawrenceburg levy any impacts which their
7 construction may have on the integrity of
8 that levy system.

9 I'd be glad to answer any questions
10 the Commission may have.

11 MR. KLINEMAN: Some of the
12 applicants, at least one that I can remember,
13 is talking about raising by fill a site right
14 along the river by seventeen feet.

15 You would have jurisdiction over that
16 kind of a program, would you not?

17 MR. NEYER: If that fill is within
18 the floodway, yes, we do have jurisdiction.

19 MR. KLINEMAN: And would you then be
20 looking at the question which has been raised
21 by the people who are connected with the
22 Oxbow, which is upstream of this particular
23 location, whether or not that fill would



1 cause an additional flood problem upstream,
2 not downstream, but upstream?

3 MR. NEYER: Within the limits of our
4 jurisdiction, yes. The assessment that the
5 department has to perform is on a one hundred
6 year flood event or a flood that has a one
7 percent chance of occurrence in every year.
8 We will assess that.

9 Now, if the Oxbow is concerned about
10 lesser frequency events or an annual flood or
11 an every two year flood, that's outside of
12 our jurisdiction.

13 MR. KLINEMAN: You mean that if it's
14 something that might not happen, you'll look
15 at it, but if it's something that happens all
16 the time, you won't? I guess I
17 misunderstood.

18 MR. NEYER: We are charged -- we are
19 charged with the responsibility of regulating
20 the Flood Control Act with respect to what's
21 known as the regulatory flood, which is the
22 one hundred year flood.

23 To take an action on approval or



1 denial of an application would be based on
2 that assessment. Once we make that
3 assessment, the tool is there to look at
4 lesser frequency events, a two year or an
5 everyday event or whatever you want to call
6 it.

7 So, yes, we could look at it.
8 Whether or not we had the authority to
9 approve or deny an application based on a
10 lesser frequency event, I don't believe so.
11 But we could assess it for the Oxbow.

12 MR. MILCAREK: I'm building in a
13 flood plain. Can the classification be
14 changed? Do you have a method to change, if
15 something is considered a flood pain, an
16 applicant can go through a certain procedure
17 and prove to you that it isn't in a flood
18 plain? Is that a possibility?

19 MR. NEYER: There is a process both
20 at the state -- it's a combination state and
21 federal process called a letter of map
22 revision or a letter of map amendment. If
23 the Federal Emergency Management Agency has



1 already studied the area, there is a process
2 to do that, yes.

3 If the feds have not studied the area
4 and the state has, the applicant or someone
5 building in the flood plain certainly has the
6 right to hire a competent consultant to
7 assess the property and demonstrate to the
8 state that it is not flood plain.

9 MR. MILCAREK: I think that was
10 brought up yesterday.

11 MR. KLINEMAN: You're not in the
12 archeological business. That's another
13 division in your department?

14 MR. NEYER: Yes. I mean, I'm not.

15 MR. THAR: Mike, before you sit down,
16 you indicated that of the applications you
17 have received, some are complete and some are
18 not.

19 Are you in a position to advise the
20 commission which of those applications you
21 consider to be complete and which you do not?

22 MR. NEYER: I think -- well, if I
23 said that, I misspoke. There are different



1 states of completeness. Many of them do not
2 have technical analysis, hydrolic analysis
3 submitted yet, so we are awaiting that. And
4 we have spoken with those applicants about
5 the deficiency.

6 MR. THAR: And with regard to the
7 archeology, Mr. Fogerty is here?

8 MR. FOGERTY: I'm Dan Fogerty,
9 Director of the Division of Historic
10 Preservation and Archeologist.

11 Do you have a question about
12 archeology?

13 MR. KLINEMAN: Oh, I'm sorry. Yes.
14 Were you here when we were discussing the
15 matter with the Corps?

16 MR. FOGERTY: A little bit earlier
17 today?

18 MR. KLINEMAN: I beg your pardon?

19 MR. FOGERTY: Just a little earlier
20 today?

21 MR. KLINEMAN: Yes.

22 MR. FOGERTY: Yes.

23 MR. KLINEMAN: Okay. One of the



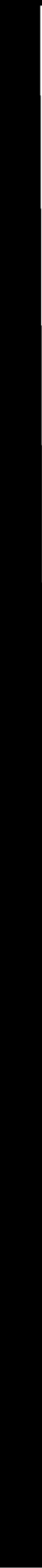
1 questions I had was that we have been told by
2 some of the applicants that they have
3 actually gone on the site and done trenching
4 and so forth and so on, and that that has
5 been done under your supervision, I guess.

6 MR. FOGERTY: Yes. All the
7 applicants, before they can do an
8 archeological investigation, have to get a
9 permit. And there have been several permits
10 given and several studies undertaken.

11 MR. KLINEMAN: Okay. And could you
12 tell us who has applied for permits and --

13 MR. FOGERTY: I might be able to.
14 I've got a report here. I'm going to have to
15 dig through it. This has gone on over some
16 period of time. Let me try to identify these
17 for you.

18 We have one subsurface and surface
19 investigation in Lawrenceburg. I cannot
20 identify from my data who that applicant was,
21 but I can certainly get it to you later. But
22 there's been both surface and subsurface, so
23 it would be a fairly thorough investigation



1 at that level.

2 MR. KLINEMAN: Well, if you could
3 give us that information.

4 MR. FOGERTY: I can tell you -- let
5 me look through here quickly. There is one
6 applicant for another Lawrenceburg site which
7 is in the office which is under review for a
8 permit.

9 That's basically it, at least in this
10 area along the Ohio River, City of
11 Lawrenceburg. But I can get the information
12 for you of those specific applications.

13 MR. FOGERTY: Okay. You can get us
14 the names then?

15 MR. FOGERTY: Yes, certainly.
16 They're all filed.

17 MR. KLINEMAN: Have any of the
18 reports, based upon the permits that you
19 gave, have you made any conclusions as to
20 whether or not there are significant
21 archeological --

22 MR. FOGERTY: Not yet. There are
23 some -- clearly some known sites in some of



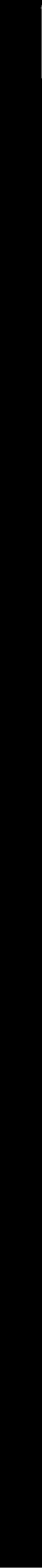
1 these areas, in other words, that have been
2 identified earlier. And some of the
3 reconnaissance work, I understand, has
4 identified those and found some other
5 artifacts. So those are under review now by
6 the state archeologist which is in our
7 division.

8 MS. BOCHNOWSKI: Now, unlike some of
9 the other licensing agencies, you don't have
10 to wait for us to grant a certificate of
11 suitability; correct? You just go ahead and
12 process these as they come in?

13 MR. FOGERTY: Well, let me make
14 clear. If you're talking about the permit to
15 undertake an archeological investigation,
16 those are processed just periodically
17 whenever there's a call for that.

18 And, again, we have done some of
19 those already. So there's no -- that doesn't
20 tie to the permit given by the Gaming
21 Commission.

22 MS. BOCHNOWSKI: Okay. Now, would
23 you have to give a subsequent permit once the



1 archeological work is done or the
2 investigation is done?

3 MR. FOGERTY: Well, it's possible
4 that the investigation could uncover other
5 evidence which would further have to be
6 investigated. It's also possible that even
7 once the report was finalized and signed off
8 on that artifacts or human remains could be
9 uncovered during the construction period.

10 In that case, there would have to be
11 a notification given, work would have to stop
12 and notification would have to be given
13 within two days to our office. So even when
14 the archeological investigation is accepted
15 and closed, the study, you still have a
16 chance you could encounter an archeological
17 site.

18 MS. BOCHNOWSKI: As you dig.

19 MR. FOGERTY: Right; during
20 construction.

21 MS. BOCHNOWSKI: Okay. Thank you.

22 Any other questions?

23 MR. FOGERTY: I just want to

1 mention -- can I mention one other thing
2 while I'm here?

3 MS. BOCHNOWSKI: Yes, please.

4 MR. FOGERTY: A lot of the cultural
5 resources have focused on archeological
6 resources. But we're also very concerned
7 about historical resources. And we have a
8 number of communities in this area that have
9 national register listed districts, and we're
10 very concerned about that and the impacts
11 that might occur to those. So this isn't all
12 just archeological resources.

13 MS. BOCHNOWSKI: Would you then get
14 into permitting in that regard also? How
15 would you come into play depending on where
16 they're located?

17 MR. FOGERTY: We have two roles here.
18 One is at the state level, and it's an
19 advisory capacity essentially to the Gaming
20 Commission to offer views on the impacts to
21 cultural resources, historical and
22 archeological, of the various applications.

23 We also -- our agency has a special



1 relationship with all federal agencies to
2 undergo what's called a 106 Review. So it's
3 possible we could be offering advice on
4 applications at the state level to the Gaming
5 Commission, and also the Corps may consult
6 with us on any cultural resources that might
7 be encountered there. So actually we could
8 come in at two different levels.

9 MS. BOCHNOWSKI: Well, here's what's
10 going to happen now. We are meeting back
11 here in a week to grant a license. If
12 there's a special concern, it might be
13 something we need to know within the next
14 week, wouldn't you think?

15 MR. THAR: I agree. Dan, can we meet
16 again and discuss this?

17 MR. FOGERTY: Yeah. I was going to
18 say, we've had some meetings already to try
19 to address this. I'm not sure we have it
20 totally addressed.

21 MS. BOCHNOWSKI: Okay. Because I
22 don't want for us to be in a position of
23 granting a license and then find out there's

1 something we could have done.

2 MR. FOGERTY: That's our concern,
3 too. We feel the same way.

4 MS. BOCHNOWSKI: Great.

5 Is that it? Okay. Well, I'll
6 probably turn this back over to you, Mr.
7 Chairman, if you want to finish up. You've
8 done such a good job all week.

9 MR. KLINEMAN: I just wonder if
10 anybody in the audience would like to move
11 that we adjourn. I will entertain motions
12 from the audience.

13 (Whereupon, a motion was made to
14 adjourn.)

15 MR. KLINEMAN: It's been moved. Is
16 there a second?

17 (Whereupon, the motion was seconded.)

18 MR. KLINEMAN: Thank you. We
19 adjourn. Thank you all.

20 * * *

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STATE OF INDIANA)
) SS:
COUNTY OF MARION)

I, Kathleen L. Cast, a Notary Public in and for said county and state, do hereby certify that the foregoing public meeting proceedings were taken before me at the time and place heretofore mentioned, and that this transcription is a true record of said public meeting proceedings;

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 27th day of June, 1995.

Kathleen L. Cast

Kathleen L. Cast, Notary Public,
Residing in Marion County,
Indiana

My commission expires:
February 9, 1999

